

# DISTRICT OF COLUMBIA OFFICIAL CODE

*2001 Edition*

TITLES 8 to 10

Environmental and Animal Control and Protection

Transportation Systems

Parks, Public Buildings, Grounds and Space



40<sup>th</sup> ANNIVERSARY  
of  
HOME RULE









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# **DISTRICT OF COLUMBIA**

## ***OFFICIAL CODE***

### **2001 EDITION**

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Containing the Laws, general and permanent in their nature,  
relating to or in force in the District of Columbia (Except such  
laws as are of application in the General and Permanent  
Laws of the United States) as of July 1, 2013.

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**VOLUME 7**

**Title 8**

**Environmental and Animal Control and Protection**

**to**

**Title 10**

**Parks, Public Buildings, Grounds and Space**



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## Foreword to 2001 Commemorative Set

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September 2012





# Foreword to 2001 Commemorative Set

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LexisNexis presents the 2013 republication of the District of Columbia Official Code, 2001 Edition to the D.C. bench and bar and to the citizens of the District of Columbia in a sincere belief that it will prove a material contribution to the orderly and efficient conduct of the government of the District and to the practice of law. LexisNexis is proud to help commemorate the 40th anniversary of Home Rule for the District of Columbia.

LexisNexis continues its tradition of excellence with its District of Columbia Official Code, 2001 Edition. This 2013 Volume 7 replaces Volume 7 of the 2001 Official Edition and its 2013 Supplement, both of which may now be discarded, recycled, or retained for historical reference. Future supplements will be keyed to this 2013 Volume and not to any of its predecessors.

The District of Columbia Official Code, 2001 Edition, represents the eighth compilation of the laws of the District of Columbia and reflects an extensive renumbering of the 1981 Edition. Users should consult the historical citations at the end of each statute, and corresponding amendment notes, as guides to legislative currency. Research features such as case annotations, section references, effect of legislation notes, editor's notes, and the comprehensive index have been prepared by LexisNexis. Your set is kept up to date through regular supplementation, free access to the on-line Official Code at <http://www.lexisnexis.com/hottopics/dccode> and the periodic replacement of volumes. All case citations are Shepardized for accuracy and continued relevance. LexisNexis also publishes a District of Columbia Advance Legislative Service (ALS). The ALS gives you the latest session laws as they are passed, along with tables showing you which sections of the Code are affected.

We actively solicit your comments and suggestions. If you have questions or comments about the statutes, or if you have suggestions regarding index improvements, please write to us or call us toll-free at 1-800-833-9844; fax us toll free at 1-800-643-1280; E-mail us at [customersupport@bender.com](mailto:customersupport@bender.com); or visit our website at <http://www.lexisnexis.com>. By providing us with your informed comments, you will be assured of having a working tool which increases in value each year.

LEXISNEXIS

September 2013





## PREFACE TO THE 2001 EDITION

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The 2001 Edition of the District of Columbia Official Code marks the eighth time that a compilation of the Laws of the District of Columbia has been published by, or under the authority of, the government of the District of Columbia or that of the United States. The District of Columbia Code was first published in 1929; eleven years later, the Second Edition (1940) was published; another eleven years later, the Third Edition (1951); ten years later, the Fourth Edition (1961); six years later, the Fifth Edition (1967); another six years later, the Sixth Edition (1973); and 8 years later, the Seventh Edition (1981) was published. The time between the publication of the Seventh Edition and this Eighth Edition represents the longest period, by almost a decade, that the District of Columbia Code has gone unrevised in its 72 year history.

The District's Charter, which in 1973, established the current tripartite government of the District of Columbia, makes it incumbent upon the legislative branch to publish and codify every act of the Council, as the Council directs, upon becoming law, so that the residents of the District may have ready access to the laws by which they are governed. In 1973, however, the framers of the District's constitution could not have foreseen the incredible technological advances that would occur in the next 25 years nor the impact they would have on the Code.

With the close of the 20th Century the world has witnessed the triumph of the Information Age, the rise of the World Wide Web, and the explosion of word processing and data storage technology. These phenomena have helped make the reproduction of legal text and data a fast, easy, and inexpensive enterprise, giving rise to a plethora of publishing mediums, and have made it a relatively simple task to reproduce existing legal text, including the District of Columbia Code. The rapid rise of the Computer Age has allowed virtually anyone with an ordinary personal computer to reproduce and compile the laws of the District of Columbia.

The laws of the District, however, are fluid, not stagnant, as they are amended several times each year. The quality and accuracy of publications not directed by the Council are beyond its control. The Council can only warrant the Code for which it has authorized publication. Therefore, in order to ensure that the residents of the District may distinguish between the compilation of District laws as produced under the direction of the elected officials of the District of Columbia and those of other persons, we have added the word "Official" to the title of the Code. Also to ensure that the Council never loses the right to publish its own laws, the government of the District of Columbia has retained the copyright to the District of Columbia Official Code.

The codified laws of the District of Columbia are created as a result of legislative action on the part of 13 individuals elected by the residents of the



District of Columbia to enact the laws that govern the District, and by the Congress. Once the legislative process is complete, the Council, through its delegation of authority to its Office of the General Counsel, codifies the laws in the form of this Code. In the process of codification, the Office of the General Counsel interprets any discrepancies in the drafting of the laws using commonly recognized rules of statutory construction. No other entity is authorized by law to make these determinations. As set forth by federal law and recognized by the Courts of the District of Columbia, this Code establishes *prima facie* evidence of the laws in force in the District of Columbia.<sup>1</sup> It is this continuity of authority, from enactment to codification to judicial review that gives this Code its authenticity and officiality as the content of the laws of the District of Columbia.

The 2001 Edition represents a recodification of the 1981 Edition in that it contains a reorganization of the presentation of the laws, inclusion of some previously omitted legal provisions, and the omission of non-substantive extraneous provisions. The theory behind the recodification is to purify the organization of the Code which over many decades has seen the haphazard mixing of original (“organic”) provisions of laws throughout the Code. In the 2001 Edition, we have established a system of codification that follows the legislative drafting principals established over many years in the Council’s Office of the General Counsel.

The recodification is not an overhaul of the Code. Although a cleanup of the antiquated, repealed and omitted provisions is long overdue, it is not the province of the Office of the General Counsel to determine which laws should be expunged as obsolete. Such decisions should be left to a working group commissioned by the Council to recommend revisions to the Code. The Office of the General Counsel has simply separated the organic laws into discrete divisions and topical categories. As much as is possible, we have followed a rule that requires that all organic law remain intact: closely following the layout of the originating act. We have retained notes to repealed sections to aid in legal research and preserved the numbering style that was first introduced in the Second Edition. Thanks to the resourcefulness of the publisher and the Council’s Office of the General Counsel staff, we have corrected provisions of law erroneously added to, or deleted from, prior editions.

The Code is organized into eight **Divisions** of practical law: government organization; judicial organization; decedent estates; criminal law; business law; education; property; and general laws. Each division is subdivided by subject matter called **Titles**, organic laws, called **Chapters** and **Subchapters**, and finally, individual **Sections** representing the individual sections of organic law. Occasionally, **Subtitles** are used to organize chapters of organic law, **Units** to organize subchapters, and **Parts** and **Subparts** to organize the additional divisions within the organic law. One important change that the user will notice, and hopefully appreciate, is that the District’s Charter, the Home Rule Act, is codified in its entirety in one location so that the

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1. See 1 U.S.C. § 204(b) (1994); *Sheetz v. District of Columbia*, 629 A.2d 515, 519 (D.C. 1993).

framework of the current District government can be readily found. We hope that the organization of the 2001 Edition of the District of Columbia Official Code will serve as a foundation for further refinement by future law revision commissions or their equivalent.

The 2001 Edition has been prepared under the supervision of Benjamin. F. Bryant, Jr., Codification Counsel, Office of the General Counsel, Council of the District of Columbia.

\_\_\_\_\_/s/\_\_\_\_\_

Linda W. Cropp

Chairman

Council of the District of Columbia

\_\_\_\_\_/s/\_\_\_\_\_

Charlotte Brookins-Hudson

General Counsel

Council of the District of Columbia





## **USER'S GUIDE**

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the District of Columbia Code, a User's Guide has been included in Volume 1 of the Code. This guide contains comments and information on the many features found within the District of Columbia Code intended to increase the usefulness of the Code to the user.



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3. District of Columbia Boards and Commissions
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5. Police, Firefighters, Medical Examiner, and Forensic Sciences
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\* Title has been enacted as law.



## Title

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\*Title has been enacted as law.

## **CITE THIS BOOK**

Thus: D.C. Official Code, § \_\_\_\_\_ (2001 Ed.)





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Repealed.

(Mar. 15, 1985, D.C. Law 5-165, § 2(a), 32 DCR 562.)

**Cross references.** — Acid rain, research and plan, see 42 U.S.C. § 8901 et seq.

Air pollution prevention and control, Clean Air Act, see 42 U.S.C. § 7401 et seq.

Clean Air Act, see 42 U.S.C. § 7401 et seq.

Pollution Prevention Act of 1990, see 42 U.S.C. § 13101 et seq.

Stratospheric Ozone Protection, see 42 U.S.C. § 7671 et seq.

Sulfur dioxide, acid deposition control, air pollution prevention and control, see 42 U.S.C. § 7651 et seq.

**Prior Codifications.** — 1981 Ed., §§ 6-901 to 6-903.

**Legislative history of Law 5-165.** — For

legislative history of D.C. Law 5-165, see Historical and Statutory Notes following § 8-101.04.

**Delegation of Authority.** — Delegation of Authority Pursuant to DC Law 6-100, the "Litter Control Administration Act of 1985;" DC Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985;" DC Law 5-165, the "DC Air Pollution Control Act of 1984;" DC Law 13-172, the "Rodent Control Act of 2000;" and DC Law 6-126, the "Construction Codes Approval and Amendments Act of 1986", see Mayor's Order 2002-5, February 1, 2002 (49 DCR 911).

**§ 8-101.04. Testing of Solid Waste Reduction Center Number 1 for compliance with certain emission standards; submission of test results and reports to Council.**

(a) The Mayor of the District of Columbia shall conduct tests as necessary at least once a year to determine the compliance of Solid Waste Reduction Center Number 1 with the emission standards for incinerators established by the District of Columbia and by the United States Environmental Protection Agency. These tests shall also include determinations of emissions of such other pollutants as may be useful or necessary in the management of the environment in the District of Columbia.

(b) More frequent tests shall be conducted as may be necessary to ensure the operation of Solid Waste Reduction Center Number 1 in compliance with District of Columbia and federal emission standards for incinerators. The need for more frequent tests shall be determined by such factors as visible emission characteristics and operating and maintenance parameters.

(c) The Mayor of the District of Columbia shall promptly submit the results of all tests performed pursuant to this section to the Council of the District of Columbia.

(d) Beginning 3 months after March 15, 1985, and every 6 months thereafter, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia a report regarding Solid Waste Reduction Center Number 1. Each report shall describe, as applicable, but need not be limited to, the following subjects:

- (1) The status of any construction or repairs;
- (2) Any changes in operational or maintenance procedures instituted since the last report to the Council of the District of Columbia and the effect of the changes on emissions from the facility;
- (3) Visible emissions from the facility; and
- (4) Anticipated additional funding requirements, if any, to achieve and maintain operation of the facility in compliance with applicable emission limitations.

(Mar. 15, 1985, D.C. Law 5-165, § 4, 32 DCR 562.)

**Cross references.** — Acid rain, research and plan, see 42 U.S.C. § 8901 et seq.

Air pollution prevention and control, Clean Air Act, see 42 U.S.C. § 7401 et seq.

Clean Air Act, see 42 U.S.C. § 7401 et seq.  
Pollution Prevention Act of 1990, see 42 U.S.C. § 13101 et seq.

Stratospheric Ozone Protection, see 42 U.S.C. § 7671 et seq.

Sulfur dioxide, acid deposition control, air pollution prevention and control, see 42 U.S.C. § 7651 et seq.

**Prior Codifications.** — 1981 Ed., § 6-904.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Air Pollution Control Temporary Amendment Act of 1996 (D.C. Law 11-256, April 9, 1997, law notification 44 DCR 2614).

**Emergency legislation.** — For temporary amendment of section, see § 2 of the Air Pollution Control Emergency Amendment Act of 1996 (D.C. Act 11-450, December 5, 1996, 43 DCR 6682), and § 2 of the Air Pollution Control Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-16, March 3, 1997, 44 DCR 1754).

**Legislative history of Law 5-165.** — Law 5-165, the "District of Columbia Air Pollution Control Act of 1984", was introduced in Council and assigned Bill No. 5-168, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on December 4, 1984, and December 18, 1984, respectively. Signed by the Mayor on January 11, 1985, it was assigned Act No. 5-230 and transmitted to both Houses of Congress for its review.

**Delegation of Authority.** — Delegation of authority under D.C. Law 5-165, the District of Columbia Air Pollution Control Act of 1984, see Mayor's Order 93-12, February 16, 1993.

Delegation of authority pursuant to D.C. Law 5-165, the "D.C. Air Pollution Control Act of 1984", see Mayor's Order 98-44, April

**Editor's notes.** — Air quality control regulations: D.C. Law 5-165, § 3, the "District of Columbia Air Pollution Control Act of 1984", enacted the air quality control regulations of the District of Columbia as Title 20 of the District of Columbia Municipal Regulations (20 DCMR Chapters 1-9).

## § 8-101.05. Comprehensive air pollution control program.

(a) The Mayor of the District of Columbia shall prepare a comprehensive program for the control and prevention of air pollution in the District of Columbia. This program shall provide for the administration and enforcement by the Mayor of the District of Columbia of the rules stated in 20 DCMR. As part of the program, the Mayor of the District of Columbia:

- (1) Shall conduct research, investigations, experiments, training demon-



strations, surveys, and studies, relating to the causes, effects, extent, prevention, and control of air pollution in the District of Columbia;

(2) Shall collect and make available, through publication, educational and training programs, and other appropriate means, the results of, and other information pertaining to, the activities carried out under paragraph (1) of this subsection; and

(3) May advise, cooperate, and enter into agreements with the governments and agencies of any state or political subdivision adjacent to the District of Columbia and any interstate or other regional agency representing these states or political subdivisions to perform the following:

(A) Establish cooperative effort and mutual assistance for the prevention and control of air pollution and the enforcement of their respective air pollution laws; and

(B) Establish any agency as may be necessary to carry out these agreements.

(b) For the purpose of carrying out the mayoral duties under this section, the Mayor of the District of Columbia may:

(1) Delegate the performance of the duties to an agency of the government of the District of Columbia, designated or established by the Mayor of the District of Columbia;

(2) Hold hearings relating to the administration of this section;

(3) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract, or otherwise;

(4) Receive and administer grants or gifts made for the purpose of carrying out the purposes of this section; and

(5) Take any other action which may be necessary to carry out the mayoral duties listed in this section.

(Mar. 15, 1985, D.C. Law 5-165, § 5, 32 DCR 562; July 25, 1995, D.C. Law 11-30, § 3, 42 DCR 1547.)

**Prior Codifications.** — 1981 Ed., § 6-905.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of Lamond-Riggs Air Quality Study Emergency Act of 2006 (D.C. Act 16-284, February 27, 2006, 53 DCR 1635).

**Legislative history of Law 5-165.** — For legislative history of D.C. Law 5-165, see Historical and Statutory Notes following § 8-101.04.

**Legislative history of Law 11-30.** — Law 11-30, the "Technical Amendments Act of 1995," was introduced in Council and assigned Bill No. 11-58, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 7, 1995, and March 7, 1995, respectively. Signed by the Mayor on March 22, 1995, it was assigned Act No. 11-32 and transmitted to both Houses of

Congress for its review. D.C. Law 11-30 became effective on July 25, 1995.

**Editor's notes.** — Air Quality Control Regulations amended: Section 485 of D.C. Law 6-42 amended §§ 100.4 and 105.1 of the Air Quality Control Regulations, effective March 15, 1985, (D.C. Law 5-165; 20 DCMR Chapters 1 through 9) to provide for adjudication of infractions pursuant to Chapter 18 of Title 2. Section 501(b) of D.C. Law 6-42 provided that the provisions of the act shall apply only to infractions which occur or are discovered by inspection after October 5, 1985.

Section 2(v) of D.C. Law 8-237 amended § 485 of D.C. Law 6-42, effective March 8, 1991, to insert subsections 105.2 and 3013.4 regarding the imposition of civil fines, penalties, and fees as alternative sanctions.

## § 8-101.06. Rules.

(a) The Mayor may issue or amend any rule needed to comply with the requirements of federal laws and regulations in implementing the District's comprehensive air pollution control program.

(b) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirement imposed upon the Mayor by subchapter I of Chapter 5 of Title 2.

(c) The Mayor may also issue or amend any rule needed to implement the provisions of this subchapter pursuant to subchapter I of Chapter 5 of Title 2. Rules issued pursuant to this subsection are not subject to the 45-day Council review period prescribed in subsection (b) of this section.

(Mar. 15, 1985, D.C. Law 5-165, § 6, 32 DCR 562; Apr. 26, 1994, D.C. Law 10-106, § 5, 41 DCR 1014; May 16, 1995, D.C. Law 11-15, § 2, 42 DCR 1392; Apr. 9, 1997, D.C. Law 11-255, § 58, 44 DCR 1271.)

**Prior Codifications.** — 1981 Ed., § 6-906.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 3 of Air Pollution Control Act of 1984 National Ambient Air Quality Standards Attainment Temporary Amendment Act of 1992 (D.C. Law 9-262, March 27, 1993, law notification 40 DCR 2332).

**Emergency legislation.** — For temporary amendment of section, see § 3 of the Air Pollution Control Act of 1984 National Ambient Air Quality Standards Attainment Emergency Amendment Act of 1992 (D.C. Act 9-390, January 6, 1993, 40 DCR 683).

**Legislative history of Law 5-165.** — For legislative history of D.C. Law 5-165, see Historical and Statutory Notes following § 8-101.04.

**Legislative history of Law 10-106.** — Law 10-106, the "Motor Vehicle Biennial Inspection Amendment Act of 1993," was introduced in Council and assigned Bill No. 10-6, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994, respectively. Signed by the Mayor on February 18, 1994, it was assigned Act No. 10-194 and transmitted to both Houses of Congress for its review. D.C. Law 10-106 became effective on April 26, 1994.

**Legislative history of Law 11-15.** — Law 11-15, the "Air Pollution Control Program Regulations Federal Conformity Amendment Act of 1995," was introduced in Council and assigned Bill No. 11-40, which was retained by Council. The Bill was adopted on first and second readings on January 17, 1995, and February 7,

1995, respectively. Signed by the Mayor on March 9, 1995, it was assigned Act No. 11-27 and transmitted to both Houses of Congress for its review. D.C. Law 11-15 became effective on May 16, 1995.

**Legislative history of Law 11-255.** — Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 5-165, District of Columbia Air Pollution Control Act of 1984, see Mayor's Order 88-62, March 15, 1988.

**Resolutions.** — Resolution 14-106, the "Air Quality Regulations Amendment Emergency Approval Resolution of 2001", was approved effective May 1,

**Editor's notes.** — Application of 10-106: Section 6(b) of D.C. Law 10-106 provided that § 5 of the act shall apply as of September 30, 1993.

District of Columbia Air Pollution Control Act of 1984 Proposed Rulemaking Approval Resolution of 1998: Pursuant to Resolution 12- (PR12-693), effective June 19, 1998, the Council approved the proposed rulemaking to amend Chapters 1 through 5 and Chapters 7 and 8 of Title 20 (Environment) DCMR, issued pursuant to the "District of Columbia Air Pollution Control Act of 1984".



*Subchapter I-A. Anacostia River Clean Up and Protection.*

**§ 8-102.01. Definitions.**

For the purposes of this subchapter, the term:

(1) "Disposable carryout bag" means a bag of any material, commonly plastic or kraft paper, which is provided to a consumer at the point of sale to carry purchases. The term "disposable carryout bag" shall not include:

(A) Bags used by consumers inside stores to:

(i) Package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;

(ii) Contain or wrap frozen foods, meat, or fish, whether prepackaged or not;

(iii) Contain or wrap flowers, potted plants, or other items where dampness may be a problem; and

(iv) Contain unwrapped prepared foods or bakery goods;

(B) Bags provided by pharmacists to contain prescription drugs;

(C) Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;

(D) Paper carryout bags that restaurants, as defined in § 47-2827(e)(2), provide to customers to take food away from the retail establishment;

(E) Reusable carryout bags; or

(F) Bags provided to the consumer, as required by § 25-113(b)(5)(C), for the purpose of transporting a partially consumed bottle of wine.

(2) "Fund" means the Anacostia River Clean Up and Protection Fund established by § 8-102.05(a).

(3) "Retail establishment" means any licensee under a Public Health: Food Establishment Retail endorsement to a basic business license under Chapter 28 of Title 47 or under an off-premises retailer's license, class A or B, pursuant to § 25-112.

(4) "Reusable carryout bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth, fiber, other machine washable fabric, or durable plastic that is at least 2.25 millimeters thick.

(Sept. 23, 2009, D.C. Law 18-55, § 2, 56 DCR 5703.)

**Temporary Amendment of Section.** — Section 2 of D.C. Law 18-140 amended section 10 of D.C. Law 18-55 to read as follows: "Sec. 10. Applicability. "Sections 2 and 4 through 6 shall apply as of January 1, 2010. Section 3 shall apply as of April 1, 2010."

Section 4(b) of D.C. Law 18-140 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section 10 of D.C. Law 18-55, see § 2 of Anacostia River Clean Up and Protection Clarification Emergency Act of 2009

(D.C. Act 18-282, January 11, 2010, 57 DCR 950).

**Legislative history of Law 18-55.** — Law 18-55, the "Anacostia River Clean Up and Protection Act of 2009", was introduced in Council and assigned Bill No. 18-150, which was referred to the Committees on Finance and Revenue and Government Operations and the Environment. The Bill was adopted on first and second readings on June 2, 2009, and June 16, 2008, respectively. Enacted without signature by the Mayor on July 6, 2009, it was assigned Act No. 18-134 and transmitted to both Houses

of Congress for its review. D.C. Law 18-55 became effective on September 23, 2009.

18-55 provided: "Sec. 10. Applicability. Sections 2 through 6 shall apply as of January 1, 2010."

**Editor's notes.** — Section 10 of D.C. Law

## **§ 8-102.02. Requirements for disposable carryout bags made available to customers by retail establishments.**

(a) Disposable carryout bags made of plastic that cannot be recycled shall not be sold or distributed, retail or wholesale, in the District.

(b) Disposable carryout bags made of paper shall:

(1) Be 100% recyclable;

(2) Contain a minimum of 40% post-consumer recycled content; and

(3) Display the phrase "Please Recycle This Bag", or a substantially similar phrase, in a highly visible manner on the bag exterior.

(c) Disposable carryout bags made of plastic shall:

(1) Be 100% recyclable;

(2) Be made of high-density polyethylene film marked with the SPI resin identification code 2 or low-density polyethylene film marked with the SPI resin identification code 4; and

(3) Display the phrase "Please Recycle This Bag", or a substantially similar phrase, in a highly visible manner on the bag exterior.

(d) Violation of the requirements set forth in this section shall subject the retail establishment to the penalties set forth in § 8-102.04.

(Sept. 23, 2009, D.C. Law 18-55, § 3, 56 DCR 5703.)

**Legislative history of Law 18-55.** — For Law 18-55, see notes following § 8-102.01.

## **§ 8-102.03. Establishment of fee.**

(a)(1) A consumer making a purchase from a retail establishment shall pay at the time of purchase a fee of \$.05 for each disposable carryout bag.

(2) A retail establishment shall not advertise or hold out or state to the public or to a customer directly or indirectly that the reimbursement of the fee or any part thereof to be collected by the retail establishment will be assumed or absorbed by the retail establishment or otherwise refunded to the customer.

(3) All retail establishments shall indicate on the consumer transaction receipt the number of disposable carryout bags provided and the total amount of fee charged.

(b)(1)(A) Each retail establishment shall retain \$.01 of each \$.05 fee collected; provided, that an establishment that chooses to offer a carryout bag credit program to its customers, as set forth in subparagraph (B) of this paragraph, shall retain an additional \$.01 from each fee collected, for a total of \$.02 for each \$.05 fee collected.

(B) A retail establishment shall retain an additional \$.01 of each \$.05 fee for a carryout program which:

(i) Credits the consumer no less than \$.05 for each carryout bag



provided by the consumer for packaging their purchases, regardless of whether that bag is paper, plastic, or reusable;

(ii) Is prominently advertised at each checkout register; and

(iii) Reflects the total credit amount on the consumer transaction receipt.

(C) The fees retained by the retail establishment under this paragraph shall not be classified as revenue and shall be tax-exempt for the purposes of Chapters 18, 20, and 27B of Title 47.

(D) The fees retained by the retail establishment shall be excluded from the definition of retail sale under § 47-2001(n)(2) and from the definition of gross receipts under § 47-2761(5).

(E) The fees to be remitted to the District under subsection (b)(2) of this section shall be added to other tax payments in determining whether the electronic payment requirement under § 47-4402(c) applies.

(2) The remaining amount of each fee collected shall be paid to the Office of Tax and Revenue and shall be deposited in the Anacostia River Cleanup and Protection Fund established by § 8-102.05(a).

(c) The Office of Tax and Revenue shall develop rules for frequency and method for reporting and transmitting the fees, as set forth in subsection (a) of this section, to the District.

(d) Except to the extent of any inconsistency with this subchapter, the same provisions to Title 47 that are applicable to the gross sales tax shall govern the administration, collection, and enforcement of the fee set forth in subsection (a) of this section.

(e) Notwithstanding any other law, the Office of Tax and Revenue shall furnish to the District Department of the Environment, upon request, the names, addresses, and whether any fees were collected pursuant to subsection (a) of this section of retail establishments subject to the provisions of this subchapter.

(Sept. 23, 2009, D.C. Law 18-55, § 4, 56 DCR 5703; Sept. 14, 2011, D.C. Law 19-21, § 6032(a), 58 DCR 6226.)

**Section references.** — This section is referenced in § 8-102.04, § 8-102.05, § 47-1803.02, § 47-2001, § 47-2005, and § 47-2761.

**Effect of amendments.** — D.C. Law 19-21 added subsec. (e).

**Legislative history of Law 18-55.** — For Law 18-55, see notes following § 8-102.01.

**Legislative history of Law 19-21.** — Law 19-21, the “Fiscal Year 2012 Budget Support Act of 2011”, was introduced in Council and assigned Bill No. 19-203, which was referred to

the Committee of the Whole. The Bill was adopted on first and second readings on May 25, 2011, and June 14, 2011, respectively. Signed by the Mayor on July 22, 2011, it was assigned Act No. 19-98 and transmitted to both Houses of Congress for its review. D.C. Law 19-21 became effective on September 14, 2011.

**Short title.** — Short title: Section 6031 of D.C. Law 19-21 provided that subtitle D of title VI of the act may be cited as “Bag Fee Compliance Amendment Act of 2011”.

## § 8-102.04. Rules; enforcement and penalties for violation.

(a) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this subchapter within 90 days after September 23, 2009.

(b)(1) If the Mayor determines that a violation has occurred, the retail

establishment shall be liable for the fees under § 8-102.03(a) and the Mayor shall impose a penalty on the retail establishment. The penalty shall be a class 4 infraction under the Schedule of Fines in section 3201 of Title 16 of the District of Columbia Municipal Regulations (16 DCMR § 3201), pursuant to Chapter 18 of Title 2 [§ 2-1801.01 et seq.]. Adjudication of any infraction shall be pursuant to Chapter 18 of Title 2 [§ 2-1801.01 et seq.].

(2) No more than one penalty shall be imposed upon a retail establishment within a 7-day period.

(c) If payment of any amounts due under this section is not received on or before the due date, a penalty shall be added as the Mayor provides by rule.

(d) Revenues collected through citations for violation of this subchapter shall be used only for enforcement costs, including hiring inspectors and other staff, and administrative costs associated with enforcement of this subchapter.

(Sept. 23, 2009, D.C. Law 18-55, § 5, 56 DCR 5703; Sept. 14, 2011, D.C. Law 19-21, § 6032(b), 58 DCR 6226; Oct. 23, 2012, D.C. Law 19-188, § 2(a), 59 DCR 10151.)

**Section references.** — This section is referenced in § 8-102.02.

**Effect of amendments.** — D.C. Law 19-21, in subsec. (b)(2)(A), substituted “warning” for “warning in a calendar year”; and, in subsecs. (b)(2)(B) and (C), substituted “violation” for “violation in the same calendar year”.

The 2012 amendment by D.C. Law 19-188 rewrote (b).

**Legislative history of Law 18-55.** — For Law 18-55, see notes following § 8-102.01.

**Legislative history of Law 19-21.** — For

history of Law 19-21, see notes under § 8-102.03.

**Legislative history of Law 19-188.** — Law 19-188, the “Anacostia River Clean Up and Protection Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-515. The Bill was adopted on first and second readings on June 26, 2012, and July 10, 2012, respectively. Signed by the Mayor on August 6, 2012, it was assigned Act No. 19-441 and transmitted to Congress for its review. D.C. Law 19-188 became effective on Oct. 23, 2012.

## § 8-102.05. Establishment of the Anacostia River Clean Up and Protection Fund.

(a) There is established as a nonlapsing fund the Anacostia River Clean Up and Protection Fund. The fees established by § 8-102.03 for disposable carryout bags and transmitted to the Office of Tax and Revenue, the net proceeds from the issuance of Anacostia River Commemorative License Plates, and the net proceeds from the voluntary tax check-off provided in § 47-1812.111c [§ 47-1812.11d] shall be deposited in the Fund. The Fund shall be used solely for the purposes set forth in subsection (b) of this section and shall be administered by the Office of the Director of the District Department of the Environment.

(b) The Fund shall be used solely for the purposes of cleaning and protecting the Anacostia River and other impaired waterways. Funds shall be used for the following projects in the following order of priority:

(1) A public education campaign to educate residents, businesses, and tourists about the impact of trash on the District’s environmental health;

(1A) The pilot program described in § 8-102.06a, and, at the discretion of the District Department of the Environment, the pilot program’s full implementation;



(2) Providing reusable carryout bags to District residents, with priority distribution to seniors and low-income residents;

(3) Purchasing and installing equipment, such as storm drain screens and trash traps, designed to minimize trash pollution that enters waterways through storm drains, with priority given to storm drains surrounding the significantly impaired tributaries identified by the District Department of the Environment;

(4) Creating youth-oriented water resource and water pollution educational campaigns for students at the District public and charter schools;

(5) Monitoring and recording pollution indices;

(6) Preserving or enhancing water quality and fishery or wildlife habitat;

(7) Promoting conservation programs, including programs for wildlife and endangered species;

(8) Purchasing and installing signs and equipment designed to minimize trash pollution, including anti-littering signs to be installed in areas where littering would impact the Anacostia River, recycling containers, and covered trash receptacles;

(9) Restoring and enhancing wetlands and green infrastructure to protect the health of the watershed and restore the aquatic and land resources of its watershed;

(10) Funding community cleanup events and other activities that reduce trash, such as increased litter collection;

(11) Funding a circuit rider program with neighboring jurisdictions to focus river and tributary clean-up efforts upstream;

(12) Supporting vocational and job training experiences in environmental and sustainable professions that enhance the health of the watershed;

(13) Maintaining a public website that educates District residents on the progress of clean-up efforts; and

(14) Paying for the administration of this program.

(c)(1) The Fund shall not be used to supplant funds appropriated as part of an approved annual budget for Anacostia River cleaning activities.

(2) The Fund shall not be used to fund street sweeping activities.

(d) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of the fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization from Congress.

(Sept. 23, 2009, D.C. Law 18-55, § 6, 56 DCR 5703; Sept. 24, 2010, D.C. Law 18-223, § 1132, 57 DCR 6242; Oct. 23, 2012, D.C. Law 19-188, § 2(b), 59 DCR 10151.)

**Section references.** — This section is referenced in § 2-1226.36, § 8-102.01, § 8-102.03, § 8-102.07, § 47-1812.11d, and § 50-1501.03.

**Effect of amendments.** — D.C. Law 18-

223, in subsec. (c), designated the existing text as par. (1) and added par. (2).

The 2012 amendment by D.C. Law 19-188 added (b)(1A); and in (b)(8), inserted “signs and” and “anti-littering signs to be installed in

areas where littering would impact the Anacostia River.”

**Temporary Amendment of Section.** — Section 802 of D.C. Law 18-222 rewrote subsec. (c) to read as follows:

“(c)(1) The Fund shall not be used to supplant funds appropriated as part of an approved annual budget for Anacostia River cleaning activities.

“(2) The Fund shall not be used to fund street sweeping activities.”

Section 2002(b) of D.C. Law 18-222 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 802 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) amendment of section, see § 802 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

For temporary (90 day) amendment of section, see § 1132 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 18-55.** — For Law 18-55, see notes following § 8-102.01.

**Legislative history of Law 18-223.** — Law 18-223, the “Fiscal Year 2011 Budget Support Act of 2010”, was introduced in Council and assigned Bill No. 18-731, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 26, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

**Legislative history of Law 19-188.** — See note to § 8-102.04.

**Short title.** — Short title: Section 1131 of D.C. Law 18-223 provided that subtitle N of title I of the act may be cited as the “Anacostia River Clean Up and Protection Clarification Amendment Act of 2010”.

## § 8-102.06. Public information and outreach campaigns.

Beginning on or before October 1, 2009, the District Department of the Environment shall:

(1) Conduct an intensive public information campaign aimed at educating the public on the importance of reducing the number of disposable carryout bags entering the waste stream and the impact of disposable carryout bags on the rivers, tributaries, and environmental health of the District; and

(2) Conduct an outreach campaign that includes:

(A) A public-private partnership to provide reusable carryout bags to District residents; and

(B) Working with service providers that assist seniors and low-income residents to distribute information and multiple reusable carryout bags to low-income households.

(Sept. 23, 2009, D.C. Law 18-55, § 7, 56 DCR 5703.)

**Legislative history of Law 18-55.** — For Law 18-55, see notes following § 8-102.01.

## § 8-102.06a. Establishment of Anacostia pilot program.

(a) The District Department of the Environment shall:

(1) Establish a pilot program that permits entities to adopt a section of the Anacostia River for the purpose of removing bottles and other trash; and

(2) Select an entity to participate in the pilot program whose organizational mission is related to the restoration and preservation of District waterways.

(b) The pilot program shall include financial incentives and continue for at least 6 months.



(c) After completion of the pilot program, the District Department of the Environment may extend the program indefinitely and expand it to include other District waterways.

(Sept. 23, 2009, D.C. Law 18-55, § 7a, as added Oct. 23, 2012, D.C. Law 19-188, § 2(c), 59 DCR 10151.)

**Section references.** — This section is referenced in § 8-102.05.

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-188 added this section.

**Legislative history of Law 19-188.** — See note to § 8-102.04.

## § 8-102.07. Issuance of Anacostia River Commemorative License Plates.

(a) The Mayor shall issue reflectorized motor vehicle identification tags of a design to enhance public awareness of the District of Columbia's efforts to restore and protect the Anacostia River and these identification tags may be called Anacostia River Commemorative License Plates. These identification tags shall retain and display the "TAXATION WITHOUT REPRESENTATION" slogan of the current District of Columbia motor vehicle identification tags.

(b) In addition to the annual registration fee required by § 50-1501.03(a), a one-time fee of \$25 shall be charged each time new Anacostia River Commemorative License Plates are issued. There shall also be a \$20 renewal fee for Anacostia River Commemorative License Plates, which fee shall be charged biennially.

(c) The Mayor shall recover the cost of producing and issuing the Anacostia River Commemorative License Plates from the proceeds collected from the one-time \$25 fee and the biennial \$20 renewal fee established under subsection (b) of this section.

(d) The balance shall be paid into the Anacostia River Clean Up and Protection Fund established by § 8-102.05(a) and used for the purposes described therein.

(e) The Mayor shall implement this section within 180 days after September 23, 2009. If an extension is necessary, the Mayor shall notify the Council prior to the implementation date.

(Sept. 23, 2009, D.C. Law 18-55, § 8, 56 DCR 5703.)

**Cross references.** — Illegal dumping enforcement, see § 8-903.

**Section references.** — This section is referenced in § 50-1501.03.

**Legislative history of Law 18-55.** — For Law 18-55, see notes following § 8-102.01.

## *Subchapter II. Water Pollution Control.*

### § 8-103.01. Definitions.

For the purposes of this subchapter, the term:

(1) “Act” means the Water Pollution Control Act of 1984.

(1A) “Abandon” means to cease using a functioning well, to fill or plug a well to render it unproductive, to permanently disconnect a well from a water system, to allow a well to fall into a state of disrepair so extensive that it is impractical to obtain ground water, or to fail to renew a permit pursuant to § 8-103.13a within 90 days after expiration.

(2) “Aquatic animals and plants” and “aquatic life” mean the animals and plants which have typically lived in or otherwise established as a habitat the waters of the District of Columbia.

(3) “Combined sewer” means a sewer which conveys both sanitary sewage and storm water and may also convey industrial wastewater.

(4) “Criteria” means any of the group of physical, chemical, biological, and radiological water quality parameters and the associated numerical concentrations or levels which compose the numerical standards of the water quality standards and which define a component of the quality of the water needed for a designated beneficial use.

(5) “Discharge” means the spilling, leaking, releasing, pumping, pouring, emitting, emptying, or dumping of any pollutant or hazardous substance, including a discharge from a storm sewer, into or so that it may enter District of Columbia waters.

(6) “District” means the District of Columbia.

(7) “Dredge and fill activity” means the removal of dirt, sediment, sand, gravel, rock, or other solid matter from the underwater lands, and the placement of solid or semi-solid material into the waters of the District so that the material is or may be deposited on the underwater lands; the placement of pipelines, electrical cables, communication lines, tunnels, bulkheads, riprap, structural members of bridges, buildings, piers, and other facilities, and other man-made objects into the waters of the District or the underwater lands. The following activities are excluded: Federal or District navigational aids, permitted discharges of wastewater, removal of floating debris, stormwater discharges, recreational activities of individual private citizens other than mechanized mineral recovery, and the removal of materials accidentally placed in the waters of the District.

(8) “Federal Water Pollution Control Act” means the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 466 et seq. [transferred; see now 33 U.S.C. § 1251 et seq.].

(9) “Groundwater” means underground water, but excludes water in pipes, tanks, and other containers created or set up by people.

(10) “Hazardous substance” means any toxic pollutant referenced in or designated in or pursuant to § 307(a) of the Federal Water Pollution Control Act; any substance designated pursuant to § 311(b)(2)(A) of the Federal Water Pollution Control Act; or any hazardous waste having the characteristics of those identified under or listed pursuant to the District of Columbia Hazardous Waste Management Act of 1977, as amended.

(11) “Industrial wastewater” means water that has been used and contains pollutants but does not contain significant amounts of human body waste and disease-causing bacteria and viruses.

(12) “Mayor” means the Mayor of the District of Columbia or any representative or agency designated by the Mayor to carry out the provisions of this subchapter.

(13) “Nonpoint source” means any source from which pollutants are or may be discharged other than a point source.

(14) “Offshore facility” means vessels, pipelines, and other equipment operated in the District of Columbia waters.

(15) “Onshore facility” means equipment, instruments, buildings, vehicles, or other structures not in the water.

(16) “Owner” or “operator” means for a vessel or onshore or offshore facilities, a person owning, operating, or chartering by demise the vessel or the facilities, except that, for the purpose of §§ 8-103.13a and 8-103.13b, the term “owner” means a person who has the legal right to construct a well for personal use or for the use of another person.

(17) “Person” means any individual, including any owner or operator as defined in this section; partnership; corporation, including a government corporation; trust association; firm; joint stock company; organization; commission; the District or federal government; or any other entity.

(18) “Point source” means any discrete source of quantifiable pollutants, including but not limited to a municipal treatment facility discharge, residential, commercial or industrial waste discharge or a combined sewer overflow; or any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

(19) “Pollutant” means any substance which may alter or interfere with the restoration or maintenance of the chemical, physical, radiological, and biological integrity of the waters of the District; or any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemicals, chemical wastes, hazardous wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, oil, gasoline and related petroleum products, and industrial, municipal, and agricultural wastes.

(20) “Sanitary sewage” or “municipal wastewater” means draining or flushing liquids used to flush or rinse away human body waste from people, liquids used for washing and other household activities, and other liquids or rinsed away waste which may have been contaminated with disease-causing bacteria and viruses.

(21) “Sanitary sewer” means a sewer for waste materials, but not one for rain water.

(22) “Sludge” means the solid or semi-solid material removed from wastewater during treatment, including but not limited to grit, screenings, grease, oil, settleable solids, and chemicals added to the treatment processes.

(23) “Treatment facility” means the plant, the equipment, and the operations used to eliminate pollutants in wastewater, and includes the facilities and the activities administering to or supplying the treatment of wastewater.

(23A) “Underground injection” means discharging any substance through



a well into ground water, or into the subsurface where the substance has the potential to enter the waters of the District.

(24) “Underwater land” means the land beneath the waters of the District at mean high tide or the ordinary high waterline or the elevation of the highest water stage that occurs at a frequency of once per year.

(25) “Wastewater” means the waters which have been removed from their normal course or place and have been used in a manner that pollutants have been added or increased during the use, or have been altered so that discharge into the waters of the District may result in pollution.

(26) “Waters of the District” or “District waters” means flowing and still bodies of water, whether artificial or natural, whether underground or on land, so long as in the District of Columbia, but excludes water on private property prevented from reaching underground or land watercourses, and also excludes water in closed collection or distribution systems.

(26A) “Well” means any test hole, shaft, or soil excavation created by any means including, but not limited to, drilling, coring, boring, washing, driving, digging, or jetting, for purposes including, but not limited to, locating, testing, diverting, artificially recharging, or withdrawing fluids, or for the purpose of underground injection.

(27) “Wetland” means a marsh, swamp or other area periodically inundated by tides or having saturated soil conditions for prolonged periods of time and capable of supporting aquatic vegetation.

(Mar. 16, 1985, D.C. Law 5-188, § 2, 32 DCR 919; Nov. 13, 2003, D.C. Law 15-39, § 612(a), 50 DCR 5668.)

**Section references.** — This section is referenced in § 2-1226.40 and § 8-103.16.

**Prior Codifications.** — 1981 Ed., § 6-921.

**Effect of amendments.** — D.C. Law 15-39 added pars. (1A), (23A), and (26A); and rewrote par. (16) which had read as follows: “(16) ‘Owner’ or ‘operator’ means for a vessel or onshore or offshore facilities, a person owning, operating or chartering by demise the vessel or the facilities.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 612(a) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 612(a) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

**Legislative history of Law 5-188.** — Law 5-188, the “Water Pollution Control Act of 1984,” was introduced in Council and assigned Bill No. 5-326, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on December 4, 1984, and December 18, 1984, respectively. Signed by the Mayor on January 11, 1985, it was assigned Act

No. 5-253 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 15-39.** — Law 15-39, the “Fiscal Year 2004 Budget Support Act of 2003”, was introduced in Council and assigned Bill No. 15-218, which was referred to Committee on Whole. The Bill was adopted on first and second readings on May 6, 2003, and June 3, 2003, respectively. Signed by the Mayor on June 20, 2003, it was assigned Act No. 15-106 and transmitted to both Houses of Congress for its review. D.C. Law 15-39 became effective on November 13, 2003.

**Short title.** — Short title of subtitle B of title VI of Law 15-39: Section 611 of D.C. Law 15-39 provided that subtitle B of title VI of the act may be cited as the Water Pollution Control Amendment Act of 2003.

**References in text.** — The “Water Pollution Control Act of 1984,” referred to in paragraph (1) of this section, is D.C. Law 5-188.

The Federal Water Pollution Control Act, referred to in paragraph (8), is now codified at 33 U.S.C. § 1251 et seq.

“Section 307(a) of the Federal Water Pollution Control Act,” referred to in paragraph (10) of this section, is codified as 33 U.S.C. § 1317 (a).

“Section 311(b)(2)(A) of the Federal Water Pollution Control Act,” referred to in paragraph



(10) of this section, is classified as 33 U.S.C. § 1321(b)(2)(A).

The “District of Columbia Hazardous Waste Management Act of 1977,” referred to in paragraph (10) of this section, is D.C. Law

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 5-188, see Mayor’s Order 85-152, September 12, 1985.

Delegation of authority pursuant to D.C. Law 5-188, the “Water Pollution Control Act of 1984”, see Mayor’s Order 98-50, April 15, 1998 (45 DCR 2696).

**Mayor’s Orders.** — Spring Valley Scientific Advisory Panel, see Mayor’s Order 2001-32, March 1, 2001 (48 DCR 2387).

## § 8-103.02. Discharge of pollutants prohibited; exception.

Except as provided in § 8-103.06, no person shall discharge a pollutant to the waters of the District.

(Mar. 16, 1985, D.C. Law 5-188, § 3, 32 DCR 919.)

**Prior Codifications.** — 1981 Ed., § 6-922.  
**Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see His-

torical and Statutory Notes following § 8-103.01.

## § 8-103.03. Protection of aquatic life.

(a) While regulating against water pollution and except as provided in subsection (d) of this section, the Mayor shall protect aquatic animals and plants, and shall preserve and restore aquatic life in District waters for aesthetic enjoyment, for recreation, and for industry.

(b)(1) The Mayor shall study the number and the well-being of aquatic plants and animals, and shall determine the need to license or otherwise limit fishing and other forms of hunting, sports or industry which take or destroy aquatic life or the aquatic habitat. The Mayor shall consider the economic impact upon the various segments of the public before establishing fees for licenses.

(2) The Mayor may establish fishing seasons and other seasons for hunting, sports or industry, which take or destroy aquatic life or the aquatic habitat.

(3) Revenues from licensing regulatory schemes under this section shall not be used for purposes other than the administration and management of the District’s fisheries and wildlife resources. License fees paid by anglers and other users of these resources shall not be used for purposes other than the administration of the District’s Fisheries and Wildlife Division.

(c) The Mayor may enter into agreements with state and federal agencies to manage and protect aquatic life.

(d) The Mayor may protect against aquatic life which creates a nuisance in the District.

(Mar. 16, 1985, D.C. Law 5-188, § 4, 32 DCR 919; Mar. 8, 2006, D.C. Law 16-57, § 2, 53 DCR 12.)

**Prior Codifications.** — 1981 Ed., § 6-923.  
**Effect of amendments.** — D.C. Law 16-57 rewrote subsec. (b)(3) which had read as follows: “(3) Revenues from a licensing regulatory

scheme under this section shall be used only for protecting and managing aquatic life.”

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section,

see § 2 of Water Pollution Control Temporary Amendment Act of 2004 (D.C. Law 15-321, April 8, 2005, law notification 52 DCR 4710).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of Water Pollution Control Emergency Amendment Act of 2004 (D.C. Act 15-655, December 29, 2004, 52 DCR 477).

For temporary (90 day) amendment of section, see § 2 of Water Pollution Control Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-54, March 17, 2005, 52 DCR 3172).

For temporary (90 day) amendment of section, see § 2 of Water Pollution Control Emergency Amendment Act of 2005 (D.C. Act 16-201, November 17, 2005, 52 DCR 10509).

For temporary (90 day) amendment of section, see § 2 of Water Pollution Control Con-

gressional Review Emergency Amendment Act of 2006 (D.C. Act 16-280, February 27, 2006, 53 DCR 1626).

**Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-103.01.

**Legislative history of Law 16-57.** — Law 16-57, the “Water Pollution Control Amendment Act of 2005”, was introduced in Council and assigned Bill No. 16-361 which was referred to the Committee on Public Works and Environment. The Bill was adopted on first and second readings on November 1, 2005, and December 6, 2005, respectively. Signed by the Mayor on December 22, 2005, it was assigned Act No. 16-219 and transmitted to both Houses of Congress for its review. D.C. Law 16-57 became effective on March 8, 2006.

## § 8-103.04. Classification of beneficial uses of waters.

(a) At least once every 3 years, the Mayor shall review the water quality standards and if appropriate revise the classification of the beneficial uses of the waters and the criteria for water needed for the particular classes of beneficial uses.

(b) The classifications and the criteria shall accompany guidelines for preserving the waters for the beneficial uses and for preventing harm to the water quality.

(c) Before promulgating the classifications, criteria, and guidelines, the Mayor shall consider the environmental, technological, institutional, and socio-economic impact of applying and enforcing them.

(d) The Mayor shall regularly monitor District waters, according to their classification under subsection (a) of this section, to determine whether the water fulfills the quality standards established under this subchapter.

(Mar. 16, 1985, D.C. Law 5-188, § 5, 32 DCR 919.)

**Prior Codifications.** — 1981 Ed., § 6-924.

**Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see His-

torical and Statutory Notes following § 8-103.01.

## § 8-103.05. Monitoring for compliance with subchapter.

(a) The Mayor shall ensure that all monitoring for compliance under this subchapter acquires accurate data and forms the basis for valid and reliable determinations.

(b) Monitoring for compliance as a condition for a permit under this subchapter shall comply with a quality assurance plan approved by the Mayor.

(Mar. 16, 1985, D.C. Law 5-188, § 6, 32 DCR 919.)

**Prior Codifications.** — 1981 Ed., § 6-925. **Legislative history of Law 5-188.** — For torical and Statutory Notes following § 8-103.01.  
legislative history of D.C. Law 5-188, see His-

**§ 8-103.06. Certain discharges permitted; terms of permit; additional enforcement procedures; effect of federal permit; public hearing on permit; special requirements for treatment facilities; permits for industrial discharges; certain discharges from watercraft prohibited.**

(a) Except that no one may discharge into a sewer corrosive, flammable, or explosive material, or material that may adversely affect the structure of a sewer line, the Mayor may:

(1) Allow activity which, from a point source, discharges a hazardous substance, oil or other pollutant;

(2) Limit pollution from nonpoint sources to a feasible degree;

(3) Allow dredge and fill activities or construction activities in wetlands and on underwater lands; provided, that:

(A) The activities do not interfere with fish migration and the aquatic habitat remains preserved; or

(B) Damage to, or destruction of, the habitat is mitigated to the extent the Mayor requires through onsite or offsite replacement of the habitat or through payment of an amount determined by the Mayor that shall be deposited into the fund established under § 8-103.09(d); and

(4) Allow underground injection, except for any hazardous waste as defined by § 8-1302(2), and the rules and regulations promulgated thereunder.

(b) If the Mayor permits any discharge under subsection (a)(1) of this section, then the Mayor shall:

(1) Permit the discharge and the regulated activity according to this subchapter, the Federal Water Pollution Control Act, and regulations related to these acts of legislation;

(2) Explicitly list the conditions under which the discharge will be permitted;

(3) Explicitly determine the amount of wastewater and pollutants that will be permitted under the permit referred to in this section;

(4) Clearly establish the location of the discharge;

(5) Require any monitoring and reporting by the permittee to ensure compliance with the terms and conditions of the permit;

(6) Limit any other types or sources of pollution that may occur as a result of the operation;

(7) Ensure that District waters, waters in adjacent and downstream states, and the beneficial uses of these waters will not be harmed or degraded by the discharge or a combination of discharges; and

(8) Permit the discharge according to the most stringent of the following:

(A) The maintenance or attainment of water quality standards; or

(B) Removing pollutants with control technology.



(c)(1) If the Mayor limits pollution from nonpoint sources under subsection (a)(2) of this section, then the regulation of the nonpoint sources shall apply to real estate construction and development.

(2) Before any real estate construction takes place, the person performing the construction or the development shall obtain a permit for controlling pollution from the nonpoint source.

(d) Before any permit is issued under subsection (a)(1), (3), or (4) of this section, or any federal permit is certified under subsection (j) of this section, the Mayor may require the person seeking the permit or certification to perform studies to ensure conformance with this subchapter.

(e)(1) The permit shall be valid for a period not to exceed 5 years and may be renewed for up to 5-year increments; provided the Mayor may by regulation provide for modification, revocation and reissuance, and termination of permits.

(2) If the permittee timely files a complete application for renewal according to the renewal terms of the permit, then, during any delay before the permit is renewed, the Mayor may extend the validity of the expired permit for 6-month periods until the renewal takes place.

(f)(1) If an affected state protests against a permit or a term in a permit, then the Mayor shall include the protest in the record concerning the application for the permit and shall duly consider the protest.

(2) The Mayor shall deliver to the United States Environmental Protection Agency a copy of the protest and the Mayor's preliminary determination concerning the protest.

(g) In addition to the enforcement procedures otherwise provided for in this subchapter, if any person violates a permit condition, discharges without a permit, or submits a fraudulent report to the Mayor, the Mayor may:

(1) Revoke or modify the permit; or

(2) Require the permittee to submit for approval a plan to eliminate the violation and in this plan describe the personnel, engineering, and the operations necessary to eliminate any further violation of this subchapter.

(h) Those persons having a permit which has been issued by the United States Environmental Protection Agency prior to March 16, 1985, shall be exempted from the requirement for obtaining a permit under the provisions of this subchapter until the expiration date of the United States Environmental Protection Agency permit, at which time a permit from the District will be required. However, the conditions of the permit issued by the United States shall continue in force until the effective date of a permit issued by the Mayor if:

(1) The expired permit would remain in effect pursuant to applicable federal regulations;

(2) Either the regulations to implement this subsection are not yet effective; or

(3) The permittee has submitted a timely and complete application for a District permit; and, the Mayor, through no fault of the permittee, does not issue a new permit on or before the expiration date of the previous permit.

(i) Before issuing any permit, the Mayor shall provide notice of the intent to issue the permit and the opportunity for a public hearing.



(j) Before a federal permit is issued, the Mayor shall certify whether the permit conforms with this subchapter, the Federal Water Pollution Control Act, and the related regulations.

(k)(1) Treatment facilities shall keep and have available a current manual describing the operation and maintenance procedures for the facility.

(2) The Mayor shall periodically inspect and monitor permitted facilities to evaluate the operation and maintenance of the facility.

(l) The Mayor may issue permits for industrial discharges to sanitary sewers flowing to municipal treatment facilities.

(m) The discharge of sanitary sewage, wash or process water, oil laden bilge water, refuse, or litter from watercraft is prohibited.

(Mar. 16, 1985, D.C. Law 5-188, § 7, 32 DCR 919; Nov. 13, 2003, D.C. Law 15-39, § 612(b), 50 DCR 5668; Apr. 13, 2005, D.C. Law 15-354, §§ 18, 84(d)(1), 52 DCR 2638.)

**Section references.** — This section is referenced in § 8-103.02, § 8-103.09, and § 8-103.13b.

**Prior Codifications.** — 1981 Ed., § 6-926.

**Effect of amendments.** — D.C. Law 15-39, in subsec. (a), made a nonsubstantive change in par. (2), rewrote par. (3), and added par. (4); and rewrote subsec. (d).

D.C. Law 15-354, in subsecs. (b)(2) and (d), validated previously made technical corrections.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 612(b) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 612(b) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

**Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-103.01.

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 8-103.01.

**Legislative history of Law 15-354.** — Law 15-354, the “Technical Amendments Act of 2004”, was introduced in Council and assigned Bill No. 15-1130 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on February 9, 2005, it was assigned Act No. 15-770 and transmitted to both Houses of Congress for its review. D.C. Law 15-354 became effective on April 13, 2005.

**References in text.** — The Federal Water Pollution Control Act, referred to in subsections (b)(1) and (j), is codified at 33 U.S.C. § 1251 et seq.

## § 8-103.07. Location of discharge; recognition of reduction of pollutants; restrictions on quantity of materials discharged; discharge of used motor oil to sewer prohibited.

(a) While pollution from point sources into storm sewers shall be considered discharges into District waters, the location of the discharge of the storm sewer wastewater into the waters of the District or other jurisdictions shall be the location of the discharge for any permit issued by the Mayor.

(b) Except for loss of heat, no reduction of pollutants in the discharged wastewater while flowing in the storm sewer will be recognized by the Mayor.

(c) No person shall discharge to a sanitary or combined sewer any material in a quantity which would interfere with or pass through a municipal treatment facility or a unit process of the facility, cause or contribute to a

violation of any permit or water quality standard, or interfere with the potential to use sludge for a beneficial purpose.

(d) The discharge of oil, gasoline, anti-freeze, acid, or other hazardous substance, pollutant or nuisance material to any street, alley, sidewalk or other public space in quantities sufficient to constitute a hazard or nuisance is prohibited.

(e) The discharge of used motor oil to any sewer is prohibited.

(Mar. 16, 1985, D.C. Law 5-188, § 8, 32 DCR 919.)

**Prior Codifications.** — 1981 Ed., § 6-927. torical and Statutory Notes following § 8-103.01.  
**Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see His-

## **§ 8-103.08. Discharge of pollutant from vessel or onshore or offshore facility; removal of these pollutants; contingency plan for environmental emergencies.**

(a)(1) A person in charge of a vessel or an onshore or an offshore facility shall, as soon as a discharge of a pollutant from the vessel or the facility has been discovered, notify the Mayor about the discharge.

(2) Notice or information resulting from the notice shall not be used against a person in a criminal case, except a prosecution for perjury or for giving a false statement.

(b) Whenever there is a discharge or a substantial threat of discharge into the waters of the District of a hazardous substance, or there is a discharge or substantial threat of discharge into the waters of the District of a pollutant which may present an imminent and substantial danger to the public health or welfare, including danger to the livelihood of members of the public health or welfare, the Mayor is authorized to act to remove or arrange for the removal of the pollutant, and the Corporation Counsel of the District may bring suit on behalf of the District in the Superior Court of the District of Columbia or any other court of competent jurisdiction to restrain immediately any person causing or contributing to a discharge or threat of discharge, to recover any costs of removal incurred by the District, to impose civil penalties or to seek any other relief as the public interest may require.

(c)(1) By September 1, 1985, the Mayor shall establish a contingency plan for responding to environmental emergencies pursuant to the authority granted in this section.

(2) The plan shall provide for the following:

- (A) Organize and assign duties among District agencies;
- (B) Manage the procurement and use of emergency equipment and supplies;
- (C) Establish a special group of trained personnel to carry out the plan;
- (D) Develop surveillance designed to watch for emergencies and to provide the earliest possible notice to the appropriate District and federal agencies;

- (E) Establish a control center to direct the operations of the plan;
  - (F) Establish procedures and techniques for removing the pollutant;
  - and
  - (G) Establish or cooperate in a system for state and local coordination.
- (Mar. 16, 1985, D.C. Law 5-188, § 9, 32 DCR 919.)

**Section references.** — This section is referenced in § 8-103.09, § 8-103.16, and § 8-103.17.

**Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-103.01.

**Prior Codifications.** — 1981 Ed., § 6-928.

## § 8-103.09. Accounting for revenues and expenses of pollutant removal; available funds for future years; District of Columbia Wetland and Stream Mitigation Trust Fund.

(a)(1) The Mayor shall establish a financial system to account for revenues and expenses associated with removing pollutants.

(2) Civil penalties and other charges recovered under §§ 8-103.15 through 8-103.19 shall finance the pollution removal when the person responsible for the pollution cannot be found and the Mayor determines that the pollution should be removed, and may be used to purchase equipment and supplies for the § 8-103.08(c) plan.

(3) Agencies may be reimbursed after incurring expenses for removing or preventing the spread of pollution.

(b) After reimbursements and discretionary equipment purchases under subsection (a) of this section at the end of the fiscal year, the Mayor shall make available for use in future years subsection (a)(2) of this section funds up to \$250,000.

(c) Repealed.

(d)(1) The District of Columbia Wetland and Stream Mitigation Trust Fund (“Wetland Fund”) is hereby established as a nonlapsing, revolving fund pursuant to an act of Congress, to be administered by the Mayor and used for restoration, creation, and enhancement of wetlands and the waters of the District. Excluding monies collected in the current year, any money deposited in the Wetland Fund in the year prior to the current year and the interest earned on that money remaining in the Fund after the payment of the costs accrued in the prior year, less 10% of the remainder amount that shall be retained as a reserve operating balance, shall be transferred or revert to the General Fund of the District of Columbia.

(2) The Wetland Fund shall be financed by payments received to mitigate the damage to or destruction of habitat pursuant to § 8-103.06(a)(3).

(3) The Wetland Fund shall be accounted for under the procedures established pursuant to subchapter V of Chapter 3 of Title 47, and any other applicable law.

(4) The Mayor may use the Wetland Fund to repair or replace aquatic habitat that is damaged or destroyed by activities in wetlands or on underwa-



ter lands including, but not limited to, dredge and fill activity, or construction activities.

(Mar. 16, 1985, D.C. Law 5-188, § 10, 32 DCR 919; Mar. 15, 1990, D.C. Law 8-83, § 2, 37 DCR 41; Nov. 13, 2003, D.C. Law 15-39, § 612(c), 50 DCR 5668; Apr. 13, 2005, D.C. Law 15-354, §§ 84(d)(2), 90, 52 DCR 2638.)

**Section references.** — This section is referenced in § 8-103.06.

**Prior Codifications.** — 1981 Ed., § 6-929.

**Effect of amendments.** — D.C. Law 15-39, in the section heading, substituted “District of Columbia Wetland and Stream Mitigation Trust Fund” for “District of Columbia Water Pollution Control Fund”; repealed subsec. (c); and added subsec. (d).

D.C. Law 15-354, in the section heading, validated previously made technical corrections.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 612(c) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 612(c) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

**Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-103.01.

**Legislative history of Law 8-83.** — Law 8-83, the “Water Pollution Control Act of 1984 Amendment Act of 1989,” was introduced in Council and assigned Bill No. 8-370, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on November 21, 1989, and December 5, 1989, respectively. Signed by the Mayor on December 21, 1989, it was assigned Act No. 8-133 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 8-103.01.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 8-103.06.

**Editor’s notes.** — Sections 9087 and 9088 of D.C. Law 19-21 provided:

“Sec. 9087. Adjudication Hearings (Air Quality) Fund.

“Notwithstanding any other law, the funds which are deposited in the fund designated for accounting purposes by the Office of the Chief Financial Officer as fund 0664 within the District Department of the Environment pursuant to the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code § 8-103.01 et seq.), shall be deposited in the General Fund of the District of Columbia and shall not be accounted for by a separate fund or account within the General Fund of the District of Columbia. Any unexpended funds in the fund on the effective date of this subtitle shall be transferred to the unrestricted fund balance of the General Fund of the District of Columbia.

“Sec. 9088. Adjudication Hearings (Water Quality) Fund.

“Notwithstanding any other law, the funds which are deposited in the fund designated for accounting purposes by the Office of the Chief Financial Officer as fund 0665 within the District Department of the Environment pursuant to the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code § 8-103.01 et seq.), shall be deposited in the General Fund of the District of Columbia and shall not be accounted for by a separate fund or account within the General Fund of the District of Columbia. Any unexpended funds in the fund on the effective date of this subtitle shall be transferred to the unrestricted fund balance of the General Fund of the District of Columbia.”

## § 8-103.09a. District of Columbia Wells Maintenance Fund; establishment; financing. [Repealed].

Repealed.

(Mar. 16, 1985, D.C. Law 5-188, § 10a, as added Nov. 13, 2003, D.C. Law 15-39, § 612(d), 50 DCR 5668; Sept. 14, 2011, D.C. Law 19-21, § 9089, 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) addition, see § 612(d) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) addition, see § 612(d) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

**Legislative history of Law 15-39.** — For history of Law 19-21, see notes under § 8-102.03.  
Law 15-39, see notes following § 8-103.01.

**Legislative history of Law 19-21.** — For

**§ 8-103.10. Spill prevention and cleanup plan for onshore or offshore facility; discharge from underground facility; testing of underground tanks for leaks.**

(a)(1) No person shall store a pollutant or hazardous substance at an onshore or offshore facility until the Mayor has approved a spill prevention and cleanup plan for the pollutant or hazardous substance.

(2) The plan shall describe the procedures and the equipment, as well as the personnel preparations, for preventing and cleaning up a spill of the pollutant into District waters.

(b)(1) If information indicates that a discharge exists from an underground facility then the Mayor may require the owner or operator to monitor to determine if the discharge exists and the extent of the discharge.

(2) The Mayor may also require the owner or operator to remove and prevent the spread of the discharge.

(c) The owner or operator of an underground storage tank containing oil, gasoline, or any other pollutant shall test the tank at regular intervals for leaks in conformity with the requirements of subchapter VII of this chapter.

(Mar. 16, 1985, D.C. Law 5-188, § 11, 32 DCR 919; Mar. 8, 1991, D.C. Law 8-242, § 14, 38 DCR 344.)

**Prior Codifications.** — 1981 Ed., § 6-930.

**Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.04.

**Legislative history of Law 8-242.** — For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

**§ 8-103.11. Water quality management plan.**

(a) The Mayor shall establish a water quality management plan according with which activities regulated under this subchapter shall comply.

(b) The plan should include pollution control alternatives, evaluation of the attainment of the water quality standards, the population affected, the costs of implementing the plan, the designation of agencies to implement the various portions of the plan, and the benefits of implementing the plan.

(c) The plan shall be reviewed periodically.

(d) The Mayor may certify that water quality management plans from the state, the local, or the federal government are acceptable.

(e) The Mayor shall review environmental impact statements and assessments, feasibility studies, facility plans, and other proposals in order to determine if the activity conforms with the water quality management plans of the District.

(Mar. 16, 1985, D.C. Law 5-188, § 12, 32 DCR 919.)

**Prior Codifications.** — 1981 Ed., § 6-931. **Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.04.

### § 8-103.12. Mayor authorized to issue research grants.

The Mayor may issue grants for research concerning the quality of the District waters to universities and institutions.

(Mar. 16, 1985, D.C. Law 5-188, § 13, 32 DCR 919.)

**Prior Codifications.** — 1981 Ed., § 6-932. **Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.04. **Delegation of Authority.** — Delegation of authority pursuant to Law 5-188, see Mayor's Order 87-278, December 11, 1987. **Editor's notes.** — Extension of authority: The authority of the Mayor to issue grants under this section was extended to both the Department of Regulatory Affairs and the Department of Public Works by Reorganization Plan No. 2 of 1987, effective July 3, 1987. 5-188, the "Water Pollution Control Act of 1984", see Mayor's Order 98-50, April 15, 1998 (45 DCR 2696).

### § 8-103.13. Mayor authorized to regulate construction.

(a) The Mayor may regulate construction that bears upon the quality of the waters of the District.

(b) No person shall construct a treatment facility which has not been approved by the Mayor before construction begins.

(Mar. 16, 1985, D.C. Law 5-188, § 14, 32 DCR 919.)

**Prior Codifications.** — 1981 Ed., § 6-933. **Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.04.

### § 8-103.13a. Well construction, maintenance, and abandonment.

(a) Except as provided in subsection (d) of this section, no person may construct a well without first obtaining a permit subject to the terms, conditions, or restrictions the Mayor deems necessary including the right to inspect the permittee's property during reasonable times and in a reasonable manner, to ensure compliance with this subchapter or any rules promulgated thereunder. A permit issued pursuant to this subsection shall be valid for a period of 2 years after the date of issue. The Mayor may issue rules for modifying, revoking, reissuing, or terminating permits.

(b) The owner of a well shall maintain the well in accordance with the rules promulgated by the Mayor.

(c) A person shall provide at least 30 days written notice to the Mayor before abandoning the well. Within 30 days of the date of this notice, the person shall seal and fill the well pursuant to rules issued by the Mayor. A person who fails to renew a permit within 90 days after the expiration date of the permit shall be deemed to have provided notice of abandoning the well and shall seal and fill the well within 120 days of the permit's expiration date.



## § 8-103.13b

### ENVIRONMENTAL AND ANIMAL CONTROL

(d) The Mayor may create categories of wells and exempt certain categories of wells from the requirements of this section and § 8-103.13b.

(Mar. 16, 1985, D.C. Law 5-188, § 14a, as added Nov. 13, 2003, D.C. Law 15-39, § 612(e), 50 DCR 5668.)

**Section references.** — This section is referenced in § 8-103.01, § 8-103.13b, and § 8-103.16.

**Emergency legislation.** — For temporary (90 day) addition, see § 612(e) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) addition, see § 612(e) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 8-103.01.

## § 8-103.13b. Fees, reimbursements, and costs.

(a) The Mayor shall establish a schedule of fees for permits required by § 8-103.13a.

(b) The Mayor may require reimbursement of costs for services including, inspections, sample collection, or document review pursuant to § 8-103.13a.

(c) The Mayor may charge a fee for any permit issued pursuant to § 8-103.06.

(Mar. 16, 1985, D.C. Law 5-188, § 14b, as added Nov. 13, 2003, D.C. Law 15-39, § 612(e), 50 DCR 5668.)

**Section references.** — This section is referenced in § 8-103.01 and § 8-103.13a.

**Emergency legislation.** — For temporary (90 day) addition, see § 612(e) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) addition, see § 612(e) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 8-103.01.

## § 8-103.14. Use of sludge from treatment facilities.

(a) The Mayor may review and, as appropriate, approve studies, plans and specifications, operating manuals, and procedures for the disposal or use of sludge from treatment facilities and shall issue construction or operation permits.

(b) If the use of the sludge involves distribution to the public, then a distribution permit will also be required specifying the quality control and health protection conditions which must be met prior to distribution.

(c) For sludge originating outside of the District, a permit by reciprocity may be issued based upon an evaluation of the regulations of the originating state.

(Mar. 16, 1985, D.C. Law 5-188, § 15, 32 DCR 919.)

**Prior Codifications.** — 1981 Ed., § 6-934.  
**Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see His-

torical and Statutory Notes following § 8-101.04.

## § 8-103.15. Subpoena and inspection powers of Mayor.

(a) The Mayor may issue a subpoena to compel the presentation of infor-

mation pertinent to the regulation of the quality of District waters. If any person neglects or refuses to obey the subpoena, the Mayor may invoke the aid of a court of competent jurisdiction to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Mayor to produce the information requested. The court may punish any failure to obey an order issued pursuant to this subsection as a contempt thereof.

(b) For the purpose of enforcing this subchapter or any rule issued pursuant to this subchapter, the Mayor or his or her designated representative may, at any reasonable time, upon the presentation of appropriate credentials to the owner, operator, or agent in charge:

(1) Enter without delay any place to inspect any facilities, discharges, activities, equipment, wells, wetlands, underwater lands, or any other item that reasonably relates to the regulation of the quality of District waters;

(2) Inspect and obtain samples of any water or soil that will assist in regulating the quality of District waters; and

(3) Inspect and copy any record, report, information, or test result required to be maintained pursuant to the rules issued pursuant to this subchapter.

(c) If the Mayor is denied access to any place, that reasonably relates to the regulation of the quality of District waters, the Mayor may apply to a court of competent jurisdiction for a search warrant.

(Mar. 16, 1985, D.C. Law 5-188, § 16, 32 DCR 919; Nov. 13, 2003, D.C. Law 15-39, § 612(f), 50 DCR 5668.)

**Section references.** — This section is referenced in § 8-103.09.

**Prior Codifications.** — 1981 Ed., § 6-935.

**Effect of amendments.** — D.C. Law 15-39, rewrote subsecs. (a) and (b); and added subsec. (c).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 612(f) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 612(f) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

**Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.04.

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 8-103.01.

## § 8-103.16. Penalties.

(a)(1) A person who willfully or negligently violates this subchapter or the regulations promulgated pursuant to this subchapter shall be guilty of a misdemeanor.

(2) The person shall be fined at least \$2,500 or no more than \$25,000 for each day of the violation, imprisoned for no more than 1 year, or both fined and imprisoned according to this paragraph, except that any person who violates § 8-103.13a, or the regulations promulgated thereunder, shall be fined not more than \$5,000, imprisoned for no more than 90 days, or both.

(3) If the person has been previously convicted under this subsection, then the person shall be fined at least \$2,500 or no more than \$50,000 for each day of the violation, imprisoned for no more than 2 years, or both fined and



imprisoned according to this paragraph, except that any person who violates § 8-103.13a, or the regulations promulgated thereunder, shall be fined not more than \$10,000, imprisoned for no more than one year, or both.

(b)(1) Any person who knowingly makes a false statement in an application, record, report, plan, or other document maintained under this subchapter shall be guilty of a misdemeanor.

(2) The person shall be fined no more than \$10,000, imprisoned no more than 6 months, or both fined and imprisoned according to this paragraph.

(c) Any person who violates § 8-103.08(a)(1) shall be guilty of a misdemeanor.

(d) For the purposes of this section, the term “person” shall mean, in addition to the definition contained in § 8-103.01, any responsible corporate officer.

(e) The Corporation Counsel shall prosecute violations of this subchapter in the Superior Court of the District of Columbia or any other court of competent jurisdiction.

(f) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction shall be pursuant to Chapter 18 of Title 2.

(Mar. 16, 1985, D.C. Law 5-188, § 17, 32 DCR 919; Oct. 5, 1985, D.C. Law 6-42, § 401, 32 DCR 4450; Nov. 13, 2003, D.C. Law 15-39, § 612(g), 50 DCR 5668.)

**Prior Codifications.** — 1981 Ed., § 6-936.

**Effect of amendments.** — D.C. Law 15-39, in subsec. (a), inserted “except that any person who violates § 8-103.14a, or the regulations promulgated thereunder, shall be fined not more than \$5,000, imprisoned for no more than 90 days, or both” before the period in par. (2), and inserted “except that any person who violates § 8-103.14a, or the regulations promulgated thereunder, shall be fined not more than \$10,000, imprisoned for no more than one year, or both” before the period in par. (3).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 612(g) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 612(g) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

**Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.04.

**Legislative history of Law 6-42.** — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 7-1706.

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 8-103.01.

## § 8-103.17. Enforcement of subchapter.

(a) When the Mayor has reason to believe that a person has violated this subchapter or regulations or orders established under this subchapter, the Mayor shall enforce this subchapter by use of any measure, or combination of measures, authorized by this subchapter; provided, however, that a person shall not, for the same violation, be assessed a civil penalty through both the judicial and the administrative processes.

(b)(1) For violations of the law referred to in subsection (a) of this section, the Mayor may order the following:



(A) That the person comply with this subchapter;  
(B) Order the person to eliminate the violation; and  
(C) Set a deadline for the person's compliance with the commands under subparagraphs (A) and (B) of this paragraph.

(2)(A) The Mayor shall with the order notify the person that the person has a right to timely challenge the order at a hearing before the Mayor, where the hearing will determine whether the order shall become effective.

(B) The order shall state with reasonable specificity the nature of the violation.

(C) The order shall set forth the corrective or remedial action to be taken.

(D) The order shall clearly explain when it shall become effective.

(E) The order shall clearly state the deadline for the person to request a hearing with the Mayor under subparagraph (F) of this paragraph.

(F) If the person requests a hearing, then the Mayor shall conduct a hearing within 10 days of receiving the request and shall render a decision concerning the order within 10 days of the hearing.

(3) Any compliance order issued by the Mayor may be served personally or by registered mail to the person's last known address, as shown on the Mayor's records.

(c)(1) If water quality sufficient for a designated beneficial use of the water quality standards is not being attained or maintained and there is reason to believe that the use represents a health hazard to the public, the Mayor shall issue an order forbidding the use.

(2) The orders shall contain the following to the extent needed:

(A) The use which is forbidden;

(B) The waters affected by the order;

(C) The duration of the order;

(D) The health hazard involved;

(E) The reason the health hazard is believed to exist;

(F) The penalty for violating the order; and

(G) The measures needed to implement the order and to improve the water quality.

(d)(1) A civil penalty under § 8-103.18(b)(2) may be assessed by the Mayor after the Mayor notifies and provides an opportunity for a hearing to the person charged with the violation.

(2) If the Mayor charges a civil penalty under this subsection, then the Mayor shall consider the following while determining the amount of the penalty:

(A) The gravity of the offense;

(B) The care shown by the owner, operator, or person in charge; and

(C) The extent of the success in mitigating the effects of the discharge.

(e) Except where an owner or operator can prove that an unauthorized discharge was caused solely by (1) an act of God, (2) negligence on the part of the District, (3) an act of war, (4) an act or omission of a 3rd party, or (5) any combination of the foregoing causes, an owner or operator of any vessel or onshore or offshore facility from which a hazardous substance or pollutant is

discharged shall be liable for the full costs of removal, or for the cost of any assistance provided or arranged by the Mayor, in accordance with § 8-103.08(b), and for such amount as represents the damage to water quality and the aquatic life, in addition to any civil penalty.

(Mar. 16, 1985, D.C. Law 5-188, § 18, 32 DCR 919.)

**Section references.** — This section is referenced in § 8-103.18.

**Prior Codifications.** — 1981 Ed., § 6-937.

**Legislative history of Law 5-188.** — For

legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.04.

## § 8-103.18. Civil actions.

(a)(1) The Mayor is authorized to institute a civil action for a prohibitory or mandatory injunction or other appropriate relief by way of a temporary restraining order, preliminary or permanent injunction, or other judicial decree.

(2) The action shall be brought in the Superior Court of the District of Columbia or any other court of competent jurisdiction.

(3) In any action under this subsection, upon a showing that any person is violating or is about to violate any provision of this subchapter or any regulations promulgated pursuant to this subchapter or any order, permit, or permit condition established according to this subchapter, the court may grant an injunction without requiring a showing of a lack of an adequate remedy at law.

(b)(1) For violations of this subchapter or related regulations or orders, the Mayor may bring civil action in the Superior Court of the District of Columbia or any other court of competent jurisdiction.

(2)(A) A person who violates the laws referred to in paragraph (1) of this subsection shall be subject to a civil penalty of no more than \$50,000 for each violation.

(B) A person who willfully violates the laws referred to in paragraph (1) of this subsection shall be subject to a civil penalty of no more than \$250,000 for each violation.

(C) The court shall determine the amount of the civil penalty under this paragraph based on consideration of the following factors:

(i) The size of the person's business;

(ii) The ability of the person to continue the business despite the penalty;

(iii) The seriousness of the violation; and

(iv) The nature and the extent of success in the person's efforts to mitigate the effects of the discharge.

(3) If the Mayor does not apply the administrative remedy under § 8-103.17(d)(1), then the Mayor may bring suit in the Superior Court of the District of Columbia or any other court of competent jurisdiction to charge the penalty described in paragraph (2) of this subsection.

(4) Each violation of the laws referred to in paragraph (1) of this subsection shall be considered a separate offense.

(Mar. 16, 1985, D.C. Law 5-188, § 19, 32 DCR 919.)

**Section references.** — This section is referenced in § 8-103.17.

**Prior Codifications.** — 1981 Ed., § 6-938.

**Legislative history of Law 5-188.** — For

legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.04.

## § 8-103.19. Private rights of action permitted; prior notice to Mayor; regulations and investigations concerning reported violations.

(a) Any citizen of the District, private party, company, business, or citizen group may commence a civil action against any person who is in violation of any provision of this subchapter; provided, that no such action may be commenced unless:

(1) The complaining person has, at least 90 days prior to the commencement of such action, given the Mayor and the alleged violator notice of the alleged violation and of the intention to sue; and

(2) The Mayor has not within the 90-day period either taken reasonable action to bring the alleged violator into compliance or initiated enforcement proceedings in accordance with this subchapter.

(b)(1) The Mayor shall promulgate regulations for receiving and ensuring proper consideration of information submitted by the public about violations.

(2) The Mayor shall investigate and provide a written response to all reports submitted in accord with the procedures promulgated pursuant to paragraph (1) of this subsection.

(3) The Mayor shall not oppose intervention by any citizen in a civil action brought pursuant to this section.

(4) Before settlement of any enforcement action brought pursuant to this section the Mayor shall publish notice of the proposed settlement in the District of Columbia Register and shall allow at least 30 days for public comment.

(Mar. 16, 1985, D.C. Law 5-188, § 20, 32 DCR 919.)

**Prior Codifications.** — 1981 Ed., § 6-939.

**Legislative history of Law 5-188.** — For legislative history of D.C. Law 5-188, see His-

torical and Statutory Notes following § 8-101.04.

## § 8-103.20. Rules.

The Mayor shall issue rules to implement the provisions of this subchapter pursuant to subchapter I of Chapter 5 of Title 2.

(Mar. 16, 1985, D.C. Law 5-188, § 21, 32 DCR 919.)

**Section references.** — This section is referenced in § 2-1226.40b.

**Prior Codifications.** — 1981 Ed., § 6-940.

**Legislative history of Law 5-188.** — For

legislative history of D.C. Law 5-188, see Historical and Statutory Notes following § 8-101.04.



*Subchapter II-A. Anacostia River Clean Up and Protection Fertilizer Act.*

**§ 8-104.01. Short title.**

This subchapter may be cited as the “Anacostia River Clean Up and Protection Fertilizer Act of 2012”.

(Apr. 20, 2013, D.C. Law 19-262, § 201, 60 DCR 1300.)

**Legislative history of Law 19-262.** — Law 19-262, the “Sustainable DC Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-756. The Bill was adopted on first and second readings on Dec. 4, 2012, and

Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 16, 2013, it was assigned Act No. 19-615 and transmitted to Congress for its review. D.C. Law 19-262 became effective on Apr. 20, 2013.

**§ 8-104.02. Definitions.**

For the purposes of this subchapter, the term:

- (1) “Department” means the District Department of the Environment.
- (2) “Enhanced efficiency fertilizer” means a fertilizer product with characteristics that allow increased plant uptake and reduces the potential of nutrient loss to the environment, such as gaseous loss, leaching, or runoff, when compared to an appropriate reference fertilizer product.
- (3) “Fertilizer” means a material that contains one or more nutrients intended to promote plant growth.
- (4) “Low phosphorus fertilizer” means a fertilizer containing no more than 5% of available phosphate (P2O5), and that has an application rate not to exceed 0.25 pound of available phosphate (P2O5)/1,000 square feet/application and 0.5 pound of available phosphate (P2O5)/1,000 square feet/year.
- (5) “Organic fertilizer” means a material that:
  - (A) Is derived from either plant or animal products containing one or more elements that are essential for plant growth, other than carbon, hydrogen, and oxygen;
  - (B) May be subjected to biological degradation processes under normal conditions of aging, rainfall, sun-curing, air drying, composting, rotting, enzymatic, or anaerobic/aerobic bacterial action; and
  - (C) May not be mixed with synthetic materials or changed in a physical or chemical manner from their initial state, except by manipulation such as drying, cooking, chopping, grinding, shredding, hydrolysis, or pelleting.
- (6) “Soil test” means a scientific measurement that determines the nutrient levels of soil.
- (7) “Turf” means nonagricultural managed grasses, such as the grasses found at parks, recreation areas, golf courses, commercial locations, cemeteries, athletic fields, schools, universities, government grounds, residential lawns, and other similar nonagricultural managed grasses. The term “turf” does not include non-grass groundcovers, shrubs, trees, vegetable and flower gardens, and indoor applications such as greenhouses.
- (8) “Waterbody” means a wetland, watercourse, river, stream, creek, storm water retention or detention basin, or other similar water resource.

(Apr. 20, 2013, D.C. Law 19-262, § 202, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-104.01.

### **§ 8-104.03. Fertilizer application requirements.**

(a) This section shall apply to individuals and entities who apply fertilizer for wages.

(b) Fertilizer may be applied only to turf:

(1) Beyond a 15-foot buffer area from a waterbody; provided, that fertilizer may be applied beyond a 10-foot buffer area if a drop spreader, rotary spreader with a deflector, or targeted spray liquid is used for the fertilizer application;

(2) When sufficient water is applied to the soil within 24 hours of application to immobilize the fertilizer and prevent fertilizer loss by runoff or when soil is sufficiently saturated to immobilize the fertilizer and prevent fertilizer loss by runoff;

(3) When a heavy rainfall is not occurring, and when soils are not saturated and the potential for fertilizer movement off-site exists;

(4) After March 1st and before November 15th in a calendar year;

(5) When the ground is not frozen; and (6) In an amount consistent with an annual recommended rate established by the Department.

(c) Fertilizer may not be applied to an impervious surface or be stored in a container on an impervious surface in a manner that would permit fertilizer runoff. Fertilizer that is inadvertently applied or leaked onto an impervious surface shall be returned for reuse to the target surface or to either its original or another appropriate container.

(d)(1) A fertilizer that contains phosphorus in an amount greater than 0.67% phosphate by weight may be applied to turf only according to paragraph (2) of this subsection.

(2) A low phosphorus fertilizer may be applied to turf if a soil test conducted within the previous 3 years indicates that the level of phosphorus in the soil is insufficient to establish, reestablish, repair, or support adequate turf growth; provided, that a fertilizer that contains phosphorus other than a low phosphorus fertilizer may be applied to turf if the soil test indicates that the level of phosphorus in the soil is insufficient to establish or reestablish turf. The application of fertilizer allowed under this paragraph shall not exceed the amount or rate of application of fertilizer recommended by the soil test, as determined by the Department.

(e)(1) A fertilizer containing nitrogen may be applied to turf only at an application rate of less than 0.7 pounds per 1,000 feet of water-soluble nitrogen, and at an application rate of less than 0.9 pounds per 1,000 square feet of total nitrogen.

(2) Notwithstanding paragraph (1) of this subsection, an enhanced efficiency fertilizer containing nitrogen that has a release rate of less than 0.7 pounds per 1,000 square feet of total nitrogen per month may be applied at an annual application rate of less than 2.5 pounds per 1,000 square feet of

nitrogen. The annual total application rate may not exceed 80% of the annual recommended rate for total nitrogen, as established by the Department.

(3) A fertilizer containing nitrogen may be applied to turf only if the fertilizer is at least 20% slow release.

(Apr. 20, 2013, D.C. Law 19-262, § 203, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-104.01.

### **§ 8-104.04. Fertilizer public education program.**

(a) Within 180 days of April 20, 2013, a retail establishment that sells fertilizer for turf shall prominently display information prepared by the Department that references:

- (1) The requirements of this subchapter;
- (2) The effects of fertilizers on local waterbodies;
- (3) A warning not to apply fertilizer:

(A) Within a 15-foot buffer area from a waterbody or a 10-foot buffer if a drop spreader, rotary spreader with a deflector, or targeted spray liquid is used;

(B) When insufficient water is applied to the soil within 24 hours of application to immobilize the fertilizer and prevent fertilizer loss by runoff;

(C) When a heavy rainfall is occurring, soils are saturated, and the potential for fertilizer movement off-site exists;

(D) Before March 1st or after November 15th in any calendar year;

(E) When the ground is frozen; or

(F) In an amount consistent with an annual recommended rate established by the Department; and

(4) The proper use of lawn care products to reduce pollution in the Chesapeake Bay and its tributaries.

(b) The Department shall develop a program of public education that shall include the dissemination of information regarding nutrient pollution, soil testing, proper interpretation of fertilizer label instructions, and the proper use and calibration of fertilizer application equipment, best management practices for fertilizer use in the urban landscape, the requirements of this subchapter, and the effects of fertilizers on the Chesapeake Bay and its tributaries.

(Apr. 20, 2013, D.C. Law 19-262, § 204, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-104.01.

### **§ 8-104.05. Fertilizer labeling requirements.**

(a) A fertilizer used on turf that is distributed or sold in the District shall include a legible label with at least the following information:

(1) The percentage of total nitrogen, including the percentage of other water soluble nitrogen and water insoluble nitrogen;



- (2) The percentage of available phosphate;
- (3) The percentage of soluble potash; and
- (4)(A) The following statement:

“Do not apply near water, storm drains or drainage ditches. Do not apply if heavy rain is expected. Apply this product only to your lawn, and sweep any product that lands on the driveway, sidewalk, or street back onto your lawn.”;

or

(B) The environmental hazard statement recommended by the U.S. Environmental Protection Agency for that product.

(b) The information required under subsection (a)(4) of this section shall be printed in a legible and conspicuous manner on at least one side of the container, or, if it does not appear on the face or display side of the container, it shall appear on the upper third of the side used.

(Apr. 20, 2013, D.C. Law 19-262, § 205, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-104.01.

## § 8-104.06. Penalties.

(a) A violation of this subchapter shall be a civil infraction for purposes of Chapter 18 of Title 2 [§ 2-1801.01 et seq.] (“Civil Infractions Act”). Civil fines, civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this subchapter, or the rules issued under authority of this subchapter, pursuant to the Civil Infractions Act. Adjudication of any infractions shall be pursuant to the Civil Infractions Act.

(b) A person or retail establishment who violates this subchapter, or a rule or regulation adopted pursuant to this subchapter, shall be subject to the following penalties:

(1) Violations shall be a class 4 infraction under the schedule of fines in section 3201 of Title 16 of the District of Columbia Municipal Regulations (16 DCMR § 3201), pursuant to the Civil Infractions Act.

(2) In lieu of a penalty, the Mayor may issue a written warning notice that a violation has occurred.

(c) The Department may charge reasonable fees to cover costs associated with the implementation of this subchapter.

(d) Revenues collected pursuant to this subchapter shall be deposited in the Anacostia River Clean Up and Protection Fund, established in subchapter I-A of this title [§ 8-102.01 et seq.].

(Apr. 20, 2013, D.C. Law 19-262, § 206, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-104.01.

## § 8-104.07. Rules; enforcement.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this subchapter.

(Apr. 20, 2013, D.C. Law 19-262, § 207, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-104.01.

### *Subchapter III. Wastewater Control.*

#### **§ 8-105.01. Purpose.**

In enacting this subchapter, the Council of the District of Columbia supports the following statutory purposes and objectives:

- (1) To provide for the maximum possible beneficial public use of the District's wastewater system;
- (2) To prevent the introduction of pollutants into the wastewater system which will interfere with the operation of the system or the use or disposal of sludge and residue;
- (3) To prevent the introduction of pollutants into the wastewater system which will pass through the system inadequately treated and into receiving waters or into the atmosphere or will otherwise be incompatible with the system;
- (4) To improve the opportunity to recycle and reclaim wastewater and sludge from the system;
- (5) To prevent tampering or misuse of the wastewater system; and
- (6) To provide procedures for complying with the requirements contained in this statute.

(Mar. 12, 1986, D.C. Law 6-95, § 2, 33 DCR 577.)

**Prior Codifications.** — 1981 Ed., § 6-951.

**Legislative history of Law 6-76.** — Law 6-76, the “Wastewater System Regulation Temporary Act of 1985,” was introduced in Council and assigned Bill No. 6-314, which was retained by Council. The Bill was adopted on first and second readings on September 24, 1985, and October 8, 1985, respectively. Signed by the Mayor on November 4, 1985, it was assigned Act No. 6-99 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-95.** — Law 6-95, the “Wastewater System Regulation Amendment Act of 1985,” was introduced in Council and assigned Bill No. 6-189, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on December 3, 1985, and December 17, 1985, respectively. Signed by the Mayor on January 15, 1986, it was assigned Act No. 6-124 and transmitted to both Houses of Congress for its review.

#### **§ 8-105.02. Definitions.**

For the purposes of this subchapter, the term:

- (1) Repealed.
- (1A) Repealed.
- (1B) Repealed.
- (1C) “Best Management Practices” or “BMPs” means the schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 C.F.R. § 403.5(a)(1) and (b), § 8-105.06 and local pretreatment requirements established pursuant to §§ 8-105.07 and 8-105.15. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff,

spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(1D) "Blue Plains" means the District of Columbia's Wastewater Treatment Plant at Blue Plains, a POTW.

(1E) "Categorical Pretreatment Standards" or "Categorical Standards" or "National Categorical Pretreatment Standards" means any regulation promulgated by the Environmental Protection Agency ("EPA") in accordance with § 307(b) and (c) of the Clean Water Act [33 U.S.C. § 1317] which specifies quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new Industrial Users in specific industrial categories provided in 40 C.F.R. Chapter I, Subchapter N, Parts 405-471.

(1F) "Categorical wastewater" means wastewater subject to National Categorical Pretreatment Standards.

(1G) "Clean Water Act" means the Federal Water Pollution Control Act, approved October 18, 1972 (86 Stat. 816; 33 U.S.C. § 1251 et seq.).

(1H) "C.F.R." means the Code of Federal Regulations.

(1I) "Cooling water" means the wastewaters discharged from any system of heat transfer, such as condensation, air conditioning, cooling, or refrigeration to which the only pollutant added is heat.

(2) "Discharge" means any solid, liquid, or gas introduced into the wastewater system, including indirect discharges.

(3) "District" means the District of Columbia.

(3A) Repealed.

(3B) "District pretreatment standards" or "Local limits" means those limits established pursuant to §§ 8-105.07 and 8-105.15.

(3C) "Hazardous waste" means any waste defined as hazardous waste in § 8-1302(2).

(3D) "High strength wastes" means wastewater containing concentrations of organic matter, solids, or nutrients that are higher than domestic (residential) strength wastewater.

(3E) "Indirect discharge" means the introduction of pollutants into a POTW or the District's wastewater system from any non-domestic source regulated under § 307(b), (c), or (d) of the Clean Water Act [33 U.S.C. § 1317], and this subchapter.

(3F) "Industrial User" means a source of indirect discharge from a non-domestic user who discharges, causes, or permits the discharge of wastewater into the District's wastewater system.

(3G) "Infectious waste" means any waste defined as infectious waste in § 8-1051(21).

(4) "Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(A) Inhibits or disrupts the District's wastewater system, its treatment processes or operations, or its sludge processes, use, or disposal; and

(B) Therefore is a cause of a violation of any requirement of WASA's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance



with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations):

- (i) Section 405 of the Clean Water Act (33 U.S.C. § 1345);
- (ii) The Solid Waste Disposal Act ("SWDA"), more commonly known as the Resource Conservation and Recovery Act of 1976, approved October 21, 1976 (90 Stat. 2795; 42 U.S.C. § 6901 et seq.), and including State or District regulations contained in any State or District sludge management plan prepared pursuant to subtitle D of the SWDA;
- (iii) The Clean Air Act, approved December 17, 1963 (77 Stat. 392; 42 U.S.C. § 7401 et seq.);
- (iv) The Toxic Substances Control Act, approved October 11, 1976 (90 Stat. 2003; 15 U.S.C. § 2601 et seq.); and
- (v) The Marine Protection, Research, and Sanctuaries Act of 1972, approved October 23, 1972 (86 Stat. 1052; 33 U.S.C. § 1401 et seq.).

(5) "Mayor" means the Mayor of the District of Columbia or any representative or agency designated by the Mayor to carry out the provisions of this subchapter.

(5A) Repealed.

(5B) Repealed.

(5C) Repealed.

(5D) "Medical waste" means any waste defined as medical waste in § 8-901(3A).

(5E) "National Pretreatment Standards", "Pretreatment standards", or "Standards" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with § 307(b) and (c) of the Clean Water Act [33 U.S.C. § 1317], which applies to Industrial Users. National Pretreatment Standards, pretreatment standards, or standards, includes prohibitive discharge limits and local limits established pursuant to 40 C.F.R. § 403.5.

(5F) "Natural outlet" means any outlet into a watercourse, pond, ditch, river, lake, or other body of surface water.

(5G) "NPDES" means the National Pollutant Discharge Elimination System.

(5H) "NPDES permit" means the National Pollution Discharge Elimination System permit issued by the EPA Region III to WASA for the operation of the Blue Plains Wastewater Treatment Facility in effect on June 4, 2007 and as it may be amended or modified in the future, and any successor permits issued by the EPA Region III to either the District or to WASA.

(6) "Objectionable color" means a color inappropriate for the normal characteristics of the receiving water.

(7) "Pass through" means any discharge which exits the District's wastewater system into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes or may cause, or contributes to, a violation of any requirement of the NPDES permit (including an increase in the magnitude of duration of a violation).

(8) "Person" means any natural person, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, govern-

mental entity or any other legal entity, or their legal representatives, agents, or assigns.

(9) "Pollutant" means any substance which induces or may induce an alteration of the chemical, physical, biological, or radiological integrity of water, which has or may have a detrimental effect on a subsequent use of that water, or which interferes or may interfere with the wastewater system.

(10) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants to the District's wastewater system. This reduction or alteration may be obtained by physical, chemical, or biological processes, process changes, or by other means, except as prohibited by 40 C.F.R. § 403.6(d) and § 8-105.06(h). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the District's wastewater system. However, if wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 C.F.R. § 403.6(e).

(10A) "Pretreatment requirements" means any District pretreatment standard or federal, state, or local substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.

(10B) "Prohibited Discharge Standards" or "Prohibitive Discharge limits" means any statute or regulation containing prohibitions on pollutant discharges including regulations promulgated by the EPA and the prohibitions in § 8-105.06 and local pretreatment requirements established pursuant to §§ 8-105.07 and 8-105.15.

(10C) "Publicly Owned Treatment Works" or "POTW" means a treatment works as defined by § 212 of the Clean Water Act (33 U.S.C. § 1292), which is owned by a State or municipality, such as the District of Columbia. The term includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances which convey wastewater to a treatment plant.

(10D) "POTW treatment plant" means that portion of a POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

(11) "Septic tank" means a watertight receptacle which receives the discharge from a drainage system or a part of the drainage system, and is designed and constructed to separate solids from the liquid, decompose organic matter through a period of detention, and allow the liquids to discharge into the soil outside of the tank.

(11A) "Significant Industrial User" or "SIU" means:

(A) Except as provided in subparagraphs (B) and (C) of this paragraph, the term "Significant Industrial User" or "SIU" means:



(i) All Industrial Users subject to Categorical Pretreatment Standards under 40 C.F.R. § 403.6, and 40 C.F.R. Chapter I, Subchapter N; and

(ii) Any other Industrial User that:

(I) Discharges an average of 25,000 gallons per day or more of process wastewater to the District's wastewater system or other POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater);

(II) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of Blue Plains; or

(III) Is designated as a Significant Industrial User by WASA on the basis that the Industrial User has a reasonable potential for adversely affecting the operation of Blue Plains or for violating any pretreatment standard or requirement.

(B) WASA may determine that an Industrial User subject to Categorical Pretreatment Standards under 40 C.F.R. § 403.6 and 40 C.F.R. Chapter I, Subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day of total categorical wastewater (excluding sanitary, non-contact cooling, and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

(i) The Industrial User, prior to WASA's finding, has consistently complied with all applicable Categorical Pretreatment Standards and requirements;

(ii) The Industrial User annually submits the certification statement required in 40 C.F.R. § 403.12(q) together with any additional information necessary to support the certification statement; and

(iii) The Industrial User never discharges any untreated concentrated wastewater.

(C) Upon a finding that an Industrial User meeting the criteria in subparagraph (A)(ii) of this paragraph has no reasonable potential for adversely affecting the operation of Blue Plains or for violating any pretreatment standards or requirements, WASA may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with 40 C.F.R. § 403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.

(11B) "Significant noncompliance" means a Significant Industrial User that is in significant noncompliance with the pretreatment standards and requirements if it violates a term of a discharge permit and its violation meets one or more of the criteria listed in § 8-105.13, or an Industrial User whose violation meets one or more of the criteria listed in § 8-105.13(c)(3), (7) or (8).

(12) "Sludge and residue" means the accumulated solids, grease, liquids, and scum separated from wastewater during the wastewater treatment process.

(13) "Slug discharge" or "Slug load" means any discharge of a non-routine, episodic nature, including an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate WASA's regulations, local limits, or permit



conditions such that it is capable of violating the specific prohibitive discharge limits of § 8-105.06 and local pretreatment requirements established pursuant to §§ 8-105.07 and 8-105.15.

(14) “User” means any person who discharges, causes, or permits the discharge of wastewater into the District’s wastewater system.

(14A) “WASA” means the District of Columbia Water and Sewer Authority, as established by Chapter 22 of Title 34.

(15) “Wastewater” means the liquid and water-carried wastes from dwellings, commercial buildings, industrial facilities, institutions, and swimming pools.

(16) “Wastewater system” means the devices, facilities, structures, equipment, or works owned, operated, maintained, or used by the District or WASA for the purpose of the transmission, storage, treatment, recycling, and reclamation of wastewater or to recycle or reuse water, including intercepting sewers, outfall sewers, wastewater collection systems, treatment, pumping, power, and other equipment and their appurtenances, extensions, improvements, remodeling of improvements, additions, and alterations to the additions, elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities, and any works, including land, that are or may be an integral part of the treatment process or that are or may be used for disposal of sludge and residue resulting from such treatment, and sewers designated as storm sewers shall be considered a part of the wastewater system for purposes of this subchapter.

(17) “Wastewater System Regulation Act” means this subchapter.

(Mar. 12, 1986, D.C. Law 6-95, § 3, 33 DCR 577; May 8, 1998, D.C. Law 12-106, § 2(a), 45 DCR 1724; May 8, 1998, D.C. Law 12-106, § 2(a), 45 DCR 1724; Apr. 12, 2000, D.C. Law 13-91, § 139(a), 47 DCR 520; Oct. 26, 2010, D.C. Law 18-256, § 2(a), 57 DCR 8082; Sept. 26, 2012, D.C. Law 19-171, § 57(a), 59 DCR 6190.)

**Section references.** — This section is referenced in § 8-105.06.

**Prior Codifications.** — 1981 Ed., § 6-952.

**Effect of amendments.** — D.C. Law 13-91, in subsec. (3A), validated a previously made technical amendment.

D.C. Law 18-256, rewrote the section.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (3E).

**Legislative history of Law 6-76.** — For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 6-95.** — For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 12-106.** — Law 12-106, the “Wastewater System Regulation Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-299, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on

first and second readings on January 6, 1998, and February 3, 1998, respectively. Signed by the Mayor on February 17, 1998, it was assigned Act No. 12-284 and transmitted to both Houses of Congress for its review. Law 12-106 became effective on May 8, 1998.

**Legislative history of Law 13-91.** — Law 13-91, the “Technical Amendments Act of 1999,” was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

**Legislative history of Law 18-256.** — Law 18-256, the “Wastewater System Regulation Amendment Act of 2010,” was introduced in Council and assigned Bill No. 18-252, which was referred to the Committee on Public Works

and Transportation. The Bill was adopted on first and second readings on June 29, 2010, and July 13, 2010, respectively. Signed by the Mayor on August 3, 2010, it was assigned Act No. 18-527 and transmitted to both Houses of Congress for its review. D.C. Law 18-256 became effective on October 26, 2010.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first

and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

**References in text.** — “Section 307(b) and (c) of the Clean Water Act”, referred to in (1E), (3E), (5E) and (5A), is 33 U.S.C. § 1317(b) and (c).

### § 8-105.03. Special agreements.

(a) Nothing in this subchapter shall be construed as prohibiting any special agreements between WASA and any user of the wastewater system under which wastewater of specific strength or character is accepted into the wastewater system and treated subject to any payments or fees as may be applicable, provided, that:

(1) National categorical pretreatment standards set forth at 40 C.F.R. § 403.6 and prohibited discharge standards set forth at 40 C.F.R. §§ 403.5(a) and (b) shall not be waived, unless such waiver is granted by mechanisms established under the Federal pretreatment regulations (40 C.F.R. § 403 et seq.).

(2) In no case shall a special agreement or waiver of local limits allow for an industrial user to discharge any pollutant which, alone or in combination with other regulated industrial user discharges, would reasonably be expected to exceed the mass loadings determined by WASA as acceptable to the sewage treatment plant based upon considerations of, among other things, interference, pass through, and sludge contamination. WASA may consider other factors (e.g., effect of the discharge on the POTW, future expansion, etc.), as it considers appropriate. In no event shall special agreement or waiver allow the sum of the loadings allocated to all industrial users for any pollutant to exceed the maximum allowable industrial loading set forth in any local limits analysis submitted by WASA and approved by EPA as part of WASA’s pretreatment program.

(3) WASA may require an industrial user requesting a special agreement or waiver adjusting effluent limitations to submit supporting documentation indicating why the industrial user cannot reasonably expect to meet the effluent limitation contained in its wastewater discharge permit, setting forth an expeditious schedule for achieving compliance with such limitations, and including such other information as WASA may require. In granting any special agreement or waiver WASA may impose time limitations upon any reduced requirements and provide a compliance schedule for achieving compliance. In granting any special agreement or waiver, WASA may impose any other conditions it considers necessary to implement the purposes of this section.

(4) If granting a special agreement or waiver would result in increased costs to WASA, (e.g., treatment, monitoring, sludge disposal costs), WASA may condition the special agreement or waiver upon the agreement of the industrial



user to pay those costs, and to provide security adequate in the judgment of WASA to assure payment of those costs.

(b) All special agreements or waivers shall be requested and granted in writing.

(Mar. 12, 1986, D.C. Law 6-95, § 4, 33 DCR 577; Oct. 26, 2010, D.C. Law 18-256, § 2(b), 57 DCR 8082.)

**Prior Codifications.** — 1981 Ed., § 6-953.

**Effect of amendments.** — D.C. Law 18-256, rewrote the section, which formerly read:

“Nothing in this subchapter shall be construed as prohibiting any agreement between the District and any user of the wastewater system under which wastewater of specific strength or character is accepted into the wastewater system and treated subject to any payments or fees as may be applicable, except that national pretreatment standards shall not be waived.”

**Legislative history of Law 6-76.** — For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 6-95.** — For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 18-256.** — For history of Law 18-256, see notes under § 8-105.02.

## § 8-105.04. Falsifying information.

Any person who knowingly makes any false statement, representation, or certification in any information or data submitted to, or required by, the District or WASA under this subchapter, or the rules and regulations promulgated pursuant to this subchapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method, upon conviction, shall be liable for the penalties provided in § 8-105.14.

(Mar. 12, 1986, D.C. Law 6-95, § 5, 33 DCR 577; Oct. 26, 2010, D.C. Law 18-256, § 2(c), 57 DCR 8082.)

**Prior Codifications.** — 1981 Ed., § 6-954.

**Effect of amendments.** — D.C. Law 18-256 substituted “the District or WASA” for “the District”.

**Legislative history of Law 6-76.** — For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 6-95.** — For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 18-256.** — For history of Law 18-256, see notes under § 8-105.02

## § 8-105.05. Tampering and misuse.

No person shall break, alter, damage, tamper with, or otherwise interfere with or impair the wastewater system.

(Mar. 12, 1986, D.C. Law 6-95, § 6, 33 DCR 577.)

**Prior Codifications.** — 1981 Ed., § 6-955.

**Legislative history of Law 6-76.** — For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 6-95.** — For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.



§ 8-105.06. Regulation.

(a) The Mayor is authorized to establish a system of wastewater treatment allocation.

(b) All users shall comply with the following prohibitive discharge limits:

(1) *General prohibitions.* — A user shall not introduce into the District's wastewater system any pollutant which causes pass through or interference. These general prohibitions and the specific prohibitions in paragraph (2) of this subsection apply to any user introducing pollutants into the District's wastewater system whether or not the user is subject to National Pretreatment Standards or National, State, District, or local pretreatment standards or requirements;

(2) *Specific prohibitions.* — In addition, the following pollutants shall not be introduced into the District's wastewater system:

(A) Pollutants which create a fire or explosion hazard in the District's wastewater system, including waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 C.F.R. § 261.21 or waste streams causing 2 readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 5% or any single reading over 10% of the Lower Explosive Limit of the meter. This prohibition includes any liquids, solids, or gases, which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to create fire or explosion or to injure in any other way the wastewater system or the process or operation and maintenance of the wastewater system. Prohibited materials under this section include, but are not limited to, gasoline, kerosene, naphtha, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.

(B) Pollutants which have a pH of less than 5.0 or more than 10.0, except when a waiver to the upper pH limit is authorized in writing by WASA, or which have any corrosive property capable of damaging or creating a hazard to structures, equipment, processes, and personnel of the District's wastewater system, including acids, sulfides, concentrated chloride and fluoride compounds, and substances which will react with water to form acidic or alkaline products.

(C) Solid or viscous substances in amounts which may cause, or contribute to obstruction of the flow in a sewer or otherwise interfere with the operation of the District's wastewater system, including, but not limited to: substances which may solidify or become viscous at temperatures above 32 degrees Fahrenheit or 0 degrees Centigrade, solids having any linear dimensions greater than 1 inch, fats, oils, and grease, incompletely shredded garbage, animal remains, blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, glass grinding, or polishing wastes.

(D) Any pollutant, including oxygen demanding pollutants, released in

discharge at a flow rate, or concentration, or a combination of both, which causes interference with the District's wastewater system.

(E) Any wastewater with heat in such amounts as will inhibit the biological activity of processes in the District's wastewater system resulting in interference. In no case shall wastewater be discharged by a user in temperatures in excess of 140 degrees Fahrenheit or 60 degrees Centigrade, nor shall wastewater be discharged which causes individually or in combination with other wastewater, the influent at the District's wastewater treatment plant to have a temperature exceeding 104 degrees Fahrenheit or 40 degrees Centigrade, except where a variance from the 140 degrees Fahrenheit discharge limit is authorized in writing by WASA.

(F) Any wastewater containing petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause pass through or interference.

(G) Any wastewater containing pollutants which result in the presence of toxic, noxious or malodorous liquids, solids, gases, vapors, or fumes within the District's wastewater system which alone or in interaction with other wastes, are capable of creating a public nuisance or hazard to humans or animals, are sufficient to cause acute worker health and safety problems, or are sufficient to cause interference or pass through.

(H) Any wastewater of objectionable color or tint not removed in the treatment process, including, but not limited to, dye wastes and vegetable tanning wastes.

(I) Any trucked or hauled pollutants, except at discharge points designated by WASA.

(J) Wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by WASA or applicable State or National standards, cause pass through or interference or otherwise adversely impact the District's wastewater system or cause or contribute to pollution.

(K) Sludges, screenings, or other residues from the pretreatment of industrial wastes.

(L) Medical or infectious wastes, except as specifically authorized in writing by WASA.

(M) Wastewater causing, alone or in conjunction with other sources, the effluent from Blue Plains to fail toxicity tests.

(N) Detergents, surface-active agents, or other substances which might cause excessive foaming in the District's wastewater system.

(O) Any waste that if otherwise disposed of would be a hazardous waste, unless specifically authorized in writing by WASA.

(P) Any substance which, alone or in conjunction with a discharge or discharges from other sources, causes or may cause, or contributes to, a violation of any requirement of the Blue Plains Title V permit issued pursuant to the Clean Air Act.

(c) All users shall comply with the National Pretreatment Standards and any national or local pretreatment requirement. All users shall comply with the National Categorical Pretreatment Standards in 40 C.F.R. Chapter I,



Subchapter N, Parts 405 through 471 and any amendments thereto. Should any National standard, requirement, or limitation conflict with a matter regulated by this subchapter or its implementing regulations, the more stringent standard shall govern.

(d) Storm waters (including snow), surface waters, ground waters, roof runoff, subsurface drainage, cooling waters, or other non-wastewater flow shall be discharged only into those sewers specifically designated as storm or combined sewers, or to a natural outlet. Discharge of any waters into any storm or combined sewer or to a natural outlet is prohibited if the discharge will create a detrimental effect upon the receiving water.

(e) Repealed.

(f) Unless specifically authorized by WASA, no user shall discharge directly into a manhole or catch basin or similar opening in or into a sewer, any substance including, but not limited to, septic tank sludge, restaurant grease, waste or discharge from fuel service stations, or boat holding tank or portable toilet effluent.

(g) The installation of septic tanks and the installation or continuing use of earth pit privies shall be prohibited. Whenever replacement or significant repair to a septic tank or discharge piping is necessary, the user shall notify WASA, which shall determine if the tank should be discontinued and the wastewater conducted to the wastewater system.

(h) Increased use of process water or dilution of a discharge shall not constitute either a partial or complete substitute for adequate or necessary pretreatment to achieve compliance with any discharge limitation.

(i) Provisions for storage of any substance in areas draining into a District sewer which, because of actual or potential discharge or leakage from the storage, creates or may create an explosion hazard in, or in any other way have a detrimental effect upon, the wastewater system, or otherwise constitute or pose a hazard to human beings, animals, property, or the receiving waters shall be subject to review by WASA, who shall require reasonable safeguards to eliminate or minimize the detrimental effect.

(j) All users shall notify WASA immediately of all discharges whether accidental or intentional, that violate these standards or that could otherwise cause problems in the District's wastewater system, including any slug load or slug discharges as defined in § 8-105.02. The notification shall include location of the discharge, type of waste, concentration, and volume, and corrective actions undertaken or to be undertaken by the user. Within 5 days following an accidental discharge, the user shall submit to WASA a detailed written report describing the cause of the discharge and the measures taken or to be taken by the user to prevent similar future occurrences. The notice shall not relieve the user of liability for any expense, loss, or damage which may be incurred or occasioned by damage to the wastewater system, injury to fish, or other damage to persons, property, or the environment caused by the user's act. Compliance with the provisions of this subsection shall not relieve the user of liability for any fines or penalties which may be imposed by this subchapter or other applicable law or regulation. Notices shall be permanently posted on the user's bulletin boards or other prominent places advising employees whom to



notify in the event of an accidental discharge. Employers shall ensure that all employees who may cause or discover a discharge are advised of the emergency notification procedures.

(k) All users shall provide wastewater pretreatment necessary to comply with this subchapter. Any facilities required to pretreat wastewater shall be provided, operated, monitored, and maintained at the user's expense.

(l) No user shall discharge pollutants into the District's wastewater system in excess of the limitations established and promulgated by WASA.

(m) No user shall discharge into the District's wastewater system any substance which, if otherwise disposed of, would be a hazardous waste under applicable federal, state, and municipal regulations without prior written notification to WASA, the Mayor, the Director of EPA Region III's Waste Management Division, and the appropriate city and state hazardous waste authorities in the jurisdiction in which the discharge will occur. Such notification shall include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge.

(n) All Significant Industrial Users shall notify WASA immediately of any changes at their facility affecting the potential for a slug discharge.

(Mar. 12, 1986, D.C. Law 6-95, § 7, 33 DCR 577; May 8, 1998, D.C. Law 12-106, § 2(b), 45 DCR 1724; Apr. 12, 2000, D.C. Law 13-91, § 139(b), 47 DCR 520; Oct. 26, 2010, D.C. Law 18-256, § 2(d), 57 DCR 8082.)

**Section references.** — This section is referenced in § 8-105.02.

**Prior Codifications.** — 1981 Ed., § 6-956.

**Effect of amendments.** — D.C. Law 13-91, in subsec. (l), substituted "promulgated by WASA." for "promulgated by WASA; and".

D.C. Law 18-256 rewrote subsecs. (b) and (m); in subsec. (c), substituted "National standard" for "national standard"; repealed subsec. (e); and added subsec. (m).

**Legislative history of Law 6-76.** — For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 6-95.** — For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 12-106.** — For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

**Legislative history of Law 13-91.** — For Law 13-91, see notes following § 8-105.02.

**Legislative history of Law 18-256.** — For history of Law 18-256, see notes under § 8-105.02.

## § 8-105.07. Administration.

(a) WASA shall administer, implement and enforce the provisions of this subchapter and ensure compliance with this subchapter and with federal laws and regulations governing the issuance of permits for the discharge or potential discharge of wastewater into publicly owned treatment plants, through individual or general permits, orders, or other similar means. In the case of Industrial Users, WASA shall use individual or general permits or equivalent individual or general control mechanisms. These permits, orders, or other similar means or individual or general control mechanisms shall comply with all applicable federal laws and regulations. WASA is authorized to set and collect fees and charges as may be necessary or appropriate to recoup costs associated with its responsibilities pursuant to this subchapter and pursuant to federal laws and regulations governing the issuance of permits for the

discharge or potential discharge of wastewater into publicly owned treatment plants.

(b) WASA shall issue rules to implement the provisions of this subchapter under subchapter I of Chapter 5 of Title 2 and the rules may include, but not be limited to:

(1) Regulations requiring users to submit information considered necessary by WASA to evaluate the user's actual or potential discharge status, including, but not limited to, description of facilities and plant processes, wastewater constituents and characteristics, discharge variations, and mechanical and plumbing plans and details;

(2) Regulations imposing conditions on users, including, but not limited to, limits on new or increased contributions of pollutants, best management practices ("BMPs") in lieu of or in addition to numerical limits, changes in the nature of pollutants discharged, flow regulation or equalization, installation of sampling facilities and specifications for monitoring programs, installation and maintenance of pretreatment facilities and BMPs, and development and implementation of slug control plans;

(3) Regulations requiring the development of compliance schedules for the installation of technology required to comply with this subchapter;

(4) Regulations imposing fees to treat hauled wastes and high strength wastes as may be defined by WASA;

(5) Regulations to effectively and safely dispose of wastes collected in portable collection systems, including, but not limited to, septic tank sludge, restaurant grease, and marine holding tank or portable toilet effluent;

(6) Regulations providing for the issuance and renewal of certificates of water and sewer availability;

(7) Regulations preventing tampering, other misuse, potential, or actual harm to the wastewater system;

(8) Regulations imposing fees and charges for the issuance of wastewater pretreatment permits and the administration of the pretreatment program that reasonably and fairly meet the costs of the administration of the pretreatment program; and

(9) Regulations for the publication of Industrial Users in significant noncompliance.

(Mar. 12, 1986, D.C. Law 6-95, § 8, 33 DCR 577; Dec. 10, 1987, D.C. Law 7-54, § 2, 34 DCR 6895; Aug. 10, 1988, D.C. Law 7-138, § 2(a)-(d), 35 DCR 4779; May 8, 1998, D.C. Law 12-106, § 2(c), 45 DCR 1724; Oct. 26, 2010, D.C. Law 18-256, § 2(e), 57 DCR 8082.)

**Section references.** — This section is referenced in § 8-105.02.

**Prior Codifications.** — 1981 Ed., § 6-957.

**Effect of amendments.** — D.C. Law 18-256 rewrote subsecs. (a), (b)(2), and (4); in the lead-in language of subsec. (b), substituted "may include" for "shall include"; in subsec. (b)(7), deleted "and" from the end; in subsec. (b)(8), substituted "; and" for a period; and added subsec. (b)(9).

**Legislative history of Law 6-76.** — For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 6-95.** — For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 7-54.** — Law 7-54, the "Wastewater System Regulation Amendment Temporary Act of 1987," was introduced in Council and assigned Bill No. 7-281.



The Bill was adopted on first and second readings on July 14, 1987, and September 29, 1987, respectively. Signed by the Mayor on October 16, 1987, it was assigned Act No. 7-87 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-138.** — Law 7-138, the “Wastewater System Regulation Amendment Act of 1988,” was introduced in Council and assigned Bill No. 7-278, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on May 17, 1988 and May 31, 1988, respec-

tively. Signed by the Mayor on June 9, 1988, it was assigned Act No. 7-188 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 12-106.** — For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

**Legislative history of Law 18-256.** — For history of Law 18-256, see notes under § 8-105.02.

**Delegation of Authority.** — Delegation of authority pursuant to Law 6-95, see Mayor’s Order 86-88, May 30, 1986.

## § 8-105.08. Inspection authority.

In order to determine compliance with this subchapter or any rule issued pursuant to this subchapter, WASA, a WASA authorized representative, and the Mayor shall have a right to enter upon or through any premises subject to this subchapter at reasonable times for the purpose of inspection, observation, measurement, sampling, and testing. The right to enter and inspect shall include the right to copy records related to compliance with this subchapter. Where a user has security measures in force which would require proper identification and clearance before entry, the user shall make necessary security arrangements so that, upon presentation of suitable identification, the Mayor or WASA will be permitted entry without delay.

(Mar. 12, 1986, D.C. Law 6-95, § 9, 33 DCR 577; May 8, 1998, D.C. Law 12-106, § 2(d), 45 DCR 1724; Oct. 26, 2010, D.C. Law 18-256, § 2(f), 57 DCR 8082.)

**Prior Codifications.** — 1981 Ed., § 6-958.

**Effect of amendments.** — D.C. Law 18-256 substituted “WASA, a WASA authorized representative, and the Mayor” for “WASA and the Mayor”.

**Legislative history of Law 6-76.** — For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 6-95.** — For

legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 12-106.** — For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

**Legislative history of Law 18-256.** — For history of Law 18-256, see notes under § 8-105.02.

## § 8-105.09. Information and confidentiality.

(a) Repealed.

(a-1) In accordance with 40 C.F.R. Part 2, any information submitted to WASA may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions, or, in the case of other submissions, by stamping the words “confidential business information” on each page containing such information. If no claim of confidentiality is made at the time of submission, WASA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 C.F.R. Part 2 (Public Information).

(a-2) User information and data provided to the District or WASA shall be available to the public or to any government agency without restriction unless



the user specifically requests and is able to demonstrate to the satisfaction of the Mayor or WASA that the release of the information would divulge information, processes, or methods of operation entitled to protection as trade secrets, pursuant to § 2-534(a)(1).

(b) When requested by the user in writing at the time of submission, information and data which might disclose trade secrets or secret processes shall not be made available for public inspection. However, the information and data shall be immediately available to the EPA for any purpose, and to WASA and the District in administrative and judicial review or enforcement proceedings to which the user is a party or in which the user has standing. Additionally, upon written request, WASA and the District may release such information and data to other government agencies in connection with uses related to this subchapter or to pretreatment programs.

(c) Effluent data, as defined in 40 C.F.R. § 2.302, which is provided to WASA shall be available to the public without restriction.

(d) Information accepted by the Mayor or WASA as confidential shall not be transmitted to any governmental agency, except EPA as provided in subsection (b) of this section, unless written notification is sent to the user at least 10 days before transmitting the information.

(d-1) All other information submitted to WASA shall be available to the public at least to the extent provided by 40 C.F.R. § 2.302.

(e)(1) All users shall retain, preserve and make available for inspection and copying any records, books, documents, memoranda, reports, correspondence, and any summaries of these materials relating to testing, internal or external monitoring, sampling, investigative and chemical analyses made by or on behalf of a user in connection with its discharge, and documentation associated with its Best Management Practices pursuant to this subchapter, for no less than 3 years from the date of preparation, drafting, or memorialization.

(2) All records which pertain to or may pertain to matters which are the subject of enforcement or litigation activities initiated by the District or WASA shall be retained and preserved by the user until all the enforcement activities have concluded and all periods of appeal have expired.

(Mar. 12, 1986, D.C. Law 6-95, § 10, 33 DCR 577; May 8, 1998, D.C. Law 12-106, § 2(e), 45 DCR 1724; Oct. 26, 2010, D.C. Law 18-256, § 2(g), 57 DCR 8082.)

**Prior Codifications.** — 1981 Ed., § 6-959.

**Effect of amendments.** — D.C. Law 18-256, rewrote the section, which formerly read:

“(a) User information and data provided to the District shall be available to the public or to any government agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Mayor that the release of the information would divulge information, processes, or methods of operation entitled to protection as trade secrets, pursuant to § 2-534(a)(1).

“(b) When requested by the user in writing, information and data which might disclose trade secrets or secret processes shall not be

made available for public inspection. However, the information and data shall be immediately available to the EPA for any purpose, and to WASA and the District in administrative and judicial review or enforcement proceedings to which the user is a party or in which the user has standing. Additionally, upon written request, WASA and the District may release such information and data to other government agencies in connection with uses related to this subchapter or to pretreatment programs.

“(c) Wastewater constituents and characteristics shall not be considered confidential information.

“(d) Information accepted by the Mayor as

confidential shall not be transmitted to any governmental agency unless written notification is sent to the user at least 10 days before transmitting the information.

“(e)(1) All users shall retain and preserve any records, books, documents, memoranda, reports, correspondence, and any summaries of these materials relating to testing, internal or external monitoring, sampling, investigative and chemical analyses made by or in behalf of a user in connection with its discharge for no less than 3 years from the date of preparation, drafting, or memorialization.

“(2) All records which pertain to or may pertain to matters which are the subject of enforcement or litigation activities initiated by the District shall be retained and preserved by

the user until all the enforcement activities have concluded and all periods of appeal have expired.”

**Legislative history of Law 6-76.** — For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 6-95.** — For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 12-106.** — For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

**Legislative history of Law 18-256.** — For history of Law 18-256, see notes under § 8-105.02.

## § 8-105.10. Administrative enforcement.

(a) Whenever WASA has reason to believe that there is a violation of this subchapter or rules issued pursuant to this subchapter, it may initiate an administrative enforcement action pursuant to this section, and any rules issued pursuant to this subchapter. WASA may initiate this administrative enforcement action in addition to any other enforcement action, civil or criminal, which has or will be undertaken to enforce this subchapter, provided that no user shall be assessed both a civil and administrative penalty for the same violation.

(b)(1) Whenever WASA has reason to believe that a person or user is violating this subchapter, or rules issued pursuant to this subchapter, it may issue a Notice of Infraction and Proposed Order. The Notice of Infraction shall include the following:

(A) The nature, time, and place of the violation (with reasonable specificity);

(B) The corrective or remedial action to be taken and any fines imposed or other amounts sought in accordance with this subchapter;

(C) The date upon which the Proposed Order shall become effective; and

(D) The procedure by which a person may answer a Notice of Infraction and Proposed Order and request a hearing, along with notification that failure to answer may lead to the adoption of some or all of the Proposed Order.

(2) The Proposed Order may direct the user to do the following:

(A) Eliminate the violation;

(B) Comply with the provisions of this subchapter;

(C) Take specific actions to avoid future violations;

(D) Pay fines, costs, or other amounts, as authorized by this subchapter; and

(E) Comply with the schedule for completion of any of the directives of the Proposed Order.

(3) The Proposed Order may provide for the suspension or revocation of any permit issued by the District or WASA pursuant to this subchapter, or the suspension or revocation of any contract or agreement between the user and the District or WASA, to the extent that such permit, contract, or agreement authorizes the person to discharge into the District's wastewater system.



(4) An answer to a Notice of Infraction and Proposed Order shall be in writing. In that answer a respondent shall admit or deny the allegations included in the Notice of Infraction. Regardless of whether the respondent admits or denies the allegations, the respondent may also assert in the answer that some or all of the terms of the Proposed Order should be modified.

(5) If a respondent, in an answer, denies any of the allegations in the Notice of Infraction, or asks that any term in the Proposed Order be modified, WASA shall conduct a hearing within 30 days of receiving the answer, unless that time period is extended in accordance with any regulations providing for such extensions. The hearing shall be conducted by a hearing examiner, who shall be an attorney regularly employed by WASA or an attorney retained by WASA on a contractual basis. The hearing examiner shall have the power to:

- (A) Preside over hearings in matters arising under this subchapter;
- (B) Determine whether any notice, order, or other document, was properly served upon any party to an enforcement action;
- (C) Compel the attendance of witnesses by subpoena, administer oaths, and take testimony of witnesses under oath;
- (D) Dismiss, rehear, and continue cases;
- (E) Issue orders, including default orders, which require the respondent to provide evidence, submit pleadings, do some or all of the actions described in the Proposed Order, or to pay hearing and inspection costs, and to do any of the foregoing within specific time periods consistent with any regulations issued pursuant to this subchapter or to pay fines or penalties for the failure to do any of the foregoing; and

(F) Suspend permits or licenses issued pursuant to this subchapter for the purpose of enforcing the payment of monetary fines, penalties, or hearing and inspection costs.

(c) WASA shall issue regulations which establish a schedule of escalating fines which may be imposed by WASA as part of its effort to enforce this subchapter through administrative action, provided that these fines may not exceed the fines which may be imposed in a civil proceeding brought pursuant to this subchapter. WASA shall also issue regulations to implement this subchapter, including regulations to establish procedures for conducting administrative enforcement actions pursuant to subsection (a) of this section. These regulations shall include, but need not be limited to, procedures and, where applicable, deadlines, for:

(1) Effecting service of any notice, order or other document produced by a person or issued by WASA pursuant to this subsection; provided, however, that WASA shall bear the burden of establishing by a preponderance of the evidence that the Notice of Infraction was not defective, that the Notice of Infraction was properly served, and that an infraction occurred;

(2) Answering or otherwise responding to any notice, order, or other document issued pursuant to this subsection;

(3) Holding any hearing conducted pursuant to this subsection, provided however, that hearings shall be conducted in accordance with subchapter I of Chapter 5 of Title 2; and

(4) Issuing orders.



(d) The District of Columbia Court of Appeals (“Court”) shall entertain and determine appeals timely filed by WASA or by any person aggrieved by a final order of a hearing examiner issued pursuant to this subchapter. The Court shall make a determination of each appeal on the basis of the record established before the hearing examiner, and may affirm, reverse, or modify the order of the hearing examiner, or may remand the case for further proceedings before the hearing examiner subject to the qualifications set forth in this subsection. The Court shall set aside any hearing examiner order that is unsupported by a preponderance of the evidence on the record. The Court shall also set aside any hearing examiner order that was made without observance of procedure required by law or regulations, except that in such instances, the Court shall apply the rule of harmless error. The Court may not modify a sanction imposed by the hearing examiner if that sanction is within the limits established by law or regulation.

(Mar. 12, 1986, D.C. Law 6-95, § 11, 33 DCR 577; May 8, 1998, D.C. Law 12-106, § 2(f), 45 DCR 1724; Apr. 13, 2005, D.C. Law 15-354, § 19(a), 52 DCR 2638; Oct. 26, 2010, D.C. Law 18-256, § 2(h), 57 DCR 8082.)

**Section references.** — This section is referenced in § 8-105.12.

**Prior Codifications.** — 1981 Ed., § 6-960.

**Effect of amendments.** — D.C. Law 15-354, in subsec. (d), substituted “Office of Administrative Hearings (‘Office’)” for “Board of Appeals and Review (‘Board’)” and substituted “Office” for “Board”.

D.C. Law 18-256, in subsec. (b)(1), substituted “believe that a person or” for “believe that a”; in subsec. (b)(2)(E), substituted “Comply with the” for “A”; in subsec. (d), substituted “Court of Appeals (‘Court’)” for “Office of Administrative Hearings (‘Office’)” and “Court” for “Office”.

**Legislative history of Law 6-76.** — For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 6-95.** — For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 12-106.** — For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 8-103.06.

**Legislative history of Law 18-256.** — For history of Law 18-256, see notes under § 8-105.02.

## § 8-105.11. Injunction.

Notwithstanding any other provision of this subchapter, WASA may seek appropriate civil action to secure a temporary restraining order, a preliminary or permanent injunction, or declaratory or other appropriate relief to restrain, minimize, halt, or eliminate the violation of, or attempted violation of, any provision of this subchapter or its implementing rules.

(Mar. 12, 1986, D.C. Law 6-95, § 12, 33 DCR 577; Oct. 26, 2010, D.C. Law 18-256, § 2(i), 57 DCR 8082.)

**Prior Codifications.** — 1981 Ed., § 6-961.

**Effect of amendments.** — D.C. Law 18-256 substituted “WASA may seek” for “the Mayor may authorize”.

**Legislative history of Law 6-76.** — For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 6-95.** — For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 18-256.** — For history of Law 18-256, see notes under § 8-105.02.

## § 8-105.12. Emergency suspension of service.

(a)(1) In the event of an actual or threatened discharge to the District's wastewater system which, in the sole discretion of WASA, reasonably appears to present an imminent danger to the health or welfare of persons, WASA may, after informal notice to the discharger, suspend water service to any user who is or may be responsible for the discharge as is necessary to avoid or abate the danger. WASA is not required to conduct a hearing before taking such action.

(2) In the event of an actual or threatened discharge to the District's wastewater system which, in the sole discretion of WASA, reasonably appears to present an imminent danger to the environment or the operation or integrity of the District's wastewater system, WASA may, after providing notice and an opportunity to respond to the user, suspend water service to any user who is or may be responsible for the discharge as is necessary to avoid or abate the danger.

(3) Any notice or opportunity to respond to which WASA is required under the United States Constitution to provide to a user as a result of any action taken by WASA pursuant to subsection (a)(1) or (2) of this section, is not required to be provided or conducted pursuant to subchapter I of Chapter 5 of Title 2.

(b) The services shall be restored by WASA as soon as practicable after the emergency situation has been corrected.

(c) WASA's decision to suspend service may be appealed by filing a petition for an administrative hearing as set forth in § 8-105.10.

(d) An appeal of WASA's decision shall not stay suspension of service.

(Mar. 12, 1986, D.C. Law 6-95, § 13, 33 DCR 577; May 8, 1998, D.C. Law 12-106, § 2(g), 45 DCR 1724; Apr. 12, 2000, D.C. Law 13-91, § 139(c), 47 DCR 520; Apr. 13, 2005, D.C. Law 15-354, § 19(b), 52 DCR 2638; Oct. 26, 2010, D.C. Law 18-256, § 2(j), 57 DCR 8082.)

**Section references.** — This section is referenced in § 8-105.13.

**Prior Codifications.** — 1981 Ed., § 6-962.

**Effect of amendments.** — D.C. Law 13-91, in subsec. (d), substituted "WASA" for "the Mayor".

D.C. Law 15-354, in subsec. (c), substituted "Office of Administrative Hearings" for "Board of Appeals and Review".

D.C. Law 18-256 rewrote subsec. (c), which had read as follows: "(c) WASA's decision to suspend service may be appealed to the Office of Administrative Hearings as set forth in § 8-105.10."

**Legislative history of Law 6-76.** — For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 6-95.** — For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 12-106.** — For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

**Legislative history of Law 13-91.** — For Law 13-91, see notes following § 8-105.02.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 8-103.06.

**Legislative history of Law 18-256.** — For history of Law 18-256, see notes under § 8-105.02.

## § 8-105.13. Annual publication.

(a) A list of the Industrial Users in significant noncompliance with the pretreatment standards and requirements in the preceding calendar year shall



be published annually by WASA in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by WASA.

(b) The notification shall summarize the nature of the significant noncompliance and any enforcement action taken against the user during the same 12-month period.

(c) For the purposes of this section, a Significant Industrial User is in significant noncompliance with the pretreatment standards and requirements if its violation meets one or more of the following criteria and any Industrial User is in significant noncompliance if its violation meets the criteria in paragraph (3), (7), or (8) of this subsection:

(1) Chronic violations of wastewater discharge limits, which are violations in which 66% or more of all the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 C.F.R. § 403.3(l);

(2) Technical Review Criteria ("TRC") violations, which are violations in which 33% or more of all of the measurements taken for the same pollutant parameter during a 6 month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 C.F.R. § 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for Biochemical Oxygen Demand, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by 40 C.F.R. § 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that WASA determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WASA or District personnel or the general public);

(4) Any violation of the terms of a wastewater discharge permit which remains uncorrected 45 days after notification of the violation is received by the user, or any failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a District or local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(5) Failure to provide required reports, such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on progress with compliance schedules or orders, within 45 days after the due date;

(6) Failure to timely and accurately report an instance of noncompliance with the pretreatment standards and requirements;

(7) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in WASA's exercise of its emergency authority pursuant to 40 C.F.R. § 403.8(f)(1)(vi)(B) and § 8-105.12 to halt or prevent such a discharge; and

(8) Any other violation or group of violations, which may include a violation of best management practices, which WASA determines will adversely affect the operation or implementation of the local pretreatment program or which WASA otherwise considers significant in light of the circumstances.



(Mar. 12, 1986, D.C. Law 6-95, § 14, 33 DCR 577; Aug. 10, 1988, D.C. Law 7-138, § 2(e), (f), 35 DCR 4779; May 8, 1998, D.C. Law 12-106, § 2(h), 45 DCR 1731; May 8, 1998, D.C. Law 12-106, § 2(h), 45 DCR 1724; Oct. 26, 2010, D.C. Law 18-256, § 2(k), 57 DCR 8082; Sept. 26, 2012, D.C. Law 19-171, § 57(b), 59 DCR 6190.)

**Section references.** — This section is referenced in § 8-105.02.

**Prior Codifications.** — 1981 Ed., § 6-963.

**Effect of amendments.** — D.C. Law 18-256, rewrote the section, which formerly read:

“(a) A list of the users in significant noncompliance with the Pretreatment Standards and Requirements in the preceding 12 months shall be published annually by WASA in the local daily newspaper with the largest circulation.

“(b) The notification shall summarize the nature of the significant noncompliance and any enforcement action taken against the user during the same 12-month period.

“(c) For the purposes of this section, a user is in significant noncompliance with the Pretreatment Standards and Requirements if its violation meets one or more of the following criteria:

“(1) Chronic violations of wastewater discharge limits, are violations in which 66% or more of all the measurements taken during a 6-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

“(2) Technical Review Criteria (“TRC”) violations, are violations in which 33% or more of all the measurements for each pollutant parameter taken during a 6-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for Biochemical Oxygen Demand, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

“(3) Any other violation of pretreatment effluent limits (daily maximum or longer term average) that WASA determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WASA or District personnel or the general public);

“(4) Any violation of the terms of a wastewater discharge permit which remains uncor-

rected 45 days after notification of the violation is received by the user, or any failure to meet a compliance schedule milestone or enforcement order issued by WASA within 90 days after the scheduled date for achievement of the compliance schedule milestone;

“(5) Failure to provide required reports, such as baseline monitoring reports, periodic self-monitoring reports, and reports on progress with compliance schedules or orders, within 30 days after the due date;

“(6) Failure to timely and accurately report an instance of noncompliance with the Pretreatment Standards and Requirements;

“(7) Any violation which results in WASA exercising its emergency authority pursuant to § 8-105.12; and

“(8) Any violation WASA considers significant in light of the circumstances.”

The 2012 amendment by D.C. Law 19-171 added “of this subsection” in the introductory language of (c).

**Legislative history of Law 6-76.** — For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 6-95.** — For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 7-138.** — For legislative history of D.C. Law 7-138, see Historical and Statutory Notes following § 8-105.07.

**Legislative history of Law 12-106.** — For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

**Legislative history of Law 18-256.** — For history of Law 18-256, see notes under § 8-105.02.

**Legislative history of Law 19-171.** — See note to § 8-105.02.

## § 8-105.14. Penalties.

(a) Any person who violates any provision of this subchapter or the rules issued pursuant to this subchapter shall be liable for a civil fine not exceeding \$10,000 for each day during which each violation continues, and shall be required to perform any other action needed to correct any harm caused by any violation or to ensure that future violations do not occur. All prosecutions under this provision shall be in the Superior Court of the District of Columbia

in the name of the District of Columbia, and shall be instituted by the Office of the Attorney General.

(b) Notwithstanding any other provision of this subchapter, any person who intentionally, willfully, or recklessly violates any provision of this subchapter or the rules issued pursuant to this subchapter shall be punished by a criminal fine not to exceed \$10,000 for each day each violation continues, or imprisonment not to exceed one year for each day each violation continues, or both, and to perform any other action needed to correct any harm caused by any violation or to ensure that future violations do not occur. All prosecutions pursuant to this provision shall be in the Superior Court of the District of Columbia.

(c) Any person who violates any provision of this subchapter or the rules issued pursuant to this subchapter shall be liable to the District and WASA for all expenses, losses, or damages incurred by the District and WASA by reason of the violation.

(Mar. 12, 1986, D.C. Law 6-95, § 15, 33 DCR 577; May 8, 1998, D.C. Law 12-106, § 2(i), 45 DCR 1724; Oct. 26, 2010, D.C. Law 18-256, § 2(l), 57 DCR 8082.)

**Section references.** — This section is referenced in § 8-105.04.

**Prior Codifications.** — 1981 Ed., § 6-964.

**Effect of amendments.** — D.C. Law 18-256, in subsec. (a), substituted “Office of the Attorney General” for “Corporation Counsel”; and, in subsec. (c), substituted “the District and WASA” for “the District”.

**Legislative history of Law 6-76.** — For legislative history of D.C. Law 6-76, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 6-95.** — For legislative history of D.C. Law 6-95, see Historical and Statutory Notes following § 8-105.01.

**Legislative history of Law 12-106.** — For legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

**Legislative history of Law 18-256.** — For history of Law 18-256, see notes under § 8-105.02.

## § 8-105.15. Authority to issue regulations.

The Board of Directors of WASA is authorized to issue regulations consistent with the authority granted to it by this subchapter, in order to implement the provisions of this subchapter.

(Mar. 12, 1986, D.C. Law 6-95, § 16, as added May 8, 1998, D.C. Law 12-106, § 2(j), 45 DCR 1724.)

**Section references.** — This section is referenced in § 8-105.02.

**Prior Codifications.** — 1981 Ed., § 6-965.

**Legislative history of Law 12-106.** — For

legislative history of D.C. Law 12-106, see Historical and Statutory Notes following § 8-105.02.

### *Subchapter IV. Restrictions on Phosphate Cleaners.*

## § 8-107.01. Definitions.

For the purposes of this subchapter, the term:

(1) “Cleaning agent” means soaps and detergents used for domestic or commercial cleaning purposes, including the purposes of cleaning fabrics, dishes, eating and cooking utensils, homes, or commercial premises, but the



term does not include cosmetics and personal hygiene products like toothpaste, shampoo, and hand soap.

(2) "Trace quantity of phosphorus" means the portion of a cleaning agent, not more than 0.5% of the weight of the cleaning agent, that constitutes all of the phosphorus in the cleaning agent.

(Mar. 25, 1986, D.C. Law 6-98, § 2, 33 DCR 723.)

**Prior Codifications.** — 1981 Ed., § 6-971.

**Legislative history of Law 6-98.** — Law 6-98, the "Phosphate Soaps and Detergent Restriction Act of 1985," was introduced in Council and assigned Bill No. 6-212, which was referred to the Committee on Public Works.

The Bill was adopted on first and second readings on December 3, 1985, and December 17, 1985, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-126 and transmitted to both Houses of Congress for its review.

**§ 8-107.02. Sale and use of phosphate cleaners prohibited; exceptions; manufacturer's package statement; testing of products for compliance; exemptions for use of noncomplying cleaners; rules and regulations; annual report by Mayor.**

(a) Except as provided in subsection (e) of this section, after 180 days after March 25, 1986, no cleaning agent may be used, sold, or furnished in the District of Columbia if it contains a phosphorous compound in a concentration exceeding a trace quantity of phosphorus, except that a cleaning agent with more than a trace quantity of phosphorus may be used for cleaning health care equipment, for use by any commercial or institutional laundry in providing laundry services for a hospital or health care facility; for cleaning food processing equipment, beverage and dairy products handling and processing equipment, and other institutional and industrial applications meeting the requirements of subsection (e) of this section, and designed specifically for cleaning dishes washed in dishwashers.

(b) Except as provided in subsection (e) of this section, after 180 days after March 25, 1986, no cleaning agent for use in dishwashers may be used, sold, or furnished in the District of Columbia if it contains elemental phosphorus exceeding 0.5% by weight.

(c) A manufacturer may state on packages containing the cleaning agent which the manufacturer has produced either of the following:

(1) The percentage of the mass of the cleaning agent comprised of elemental phosphorus according to the chemical weight of the product as compared to the chemical weight of the cleaning agent itself; or

(2) That the cleaning agent conforms to the requirements stated in subsections (a) and (b) of this section.

(d)(1) If a package containing a cleaning agent does not, in writing, present either of the 2 statements suggested in subsection (c) of this section, then the Mayor of the District of Columbia ("Mayor") shall test the cleaning agent to determine whether it complies with subsection (a) or (b) of this section.

(2) Except as provided in subsection (e) of this section, the Mayor shall prohibit from being marketed in the District of Columbia a cleaning agent that does not conform to this section.



(e) After the Mayor issues rules for applying for and receiving an exemption from the obligations in subsection (a) or (b) of this section, the Mayor may permit the use of cleaning agents that do not comply with subsection (a) or (b) under the following circumstances:

(1) Complying with subsection (a) or (b) of this section would create a significant hardship on the consumers using the cleaning agent;

(2) Complying with subsection (a) or (b) of this section would be unreasonable because an adequate substitute is not available;

(3) Complying with subsection (a) or (b) of this section would disrupt research clearly designed for scientific purposes and not intended to circumvent the purpose of this subchapter; or

(4) Complying with subsection (b) of this section may be impracticable for persons using commercial dishwashers; provided, that dishwashing detergents designed for use in commercial dishwashers shall not be used, sold, or furnished in the District of Columbia if it contains elemental phosphorus equal to or greater than 8.7% by weight.

(f)(1) The Mayor shall issue rules to implement the provisions of this subchapter pursuant to subchapter I of Chapter 5 of Title 2.

(2) The Mayor shall transmit the rules required by this section to the Council of the District of Columbia ("Council") for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess, during which the Council may approve or disapprove, in whole or in part, the rules by resolution. If the Council does not approve or disapprove the rules during the 30-day review period, then the rules shall be considered approved at the expiration of the 30 days.

(g) The Mayor shall report annually, in writing, to the Council on March 1 the reasons for and the number of exemptions granted pursuant to this section and shall identify each person or organization granted an exemption by name and address.

(Mar. 25, 1986, D.C. Law 6-98, § 3, 33 DCR 723; Mar. 31, 2011, D.C. Law 18-336, § 7, 58 DCR 605.)

**Section references.** — This section is referenced in § 8-107.03, § 8-107.04, and § 8-108.04.

**Prior Codifications.** — 1981 Ed., § 6-972.

**Effect of amendments.** — D.C. Law 18-336, in subsec. (b), substituted "0.5%" for "8.7%"; in subsec. (e), deleted "or" from the end of par. (2), substituted "; or" for a period the end of par. (3 ), and added par. (4).

**Legislative history of Law 6-98.** — For legislative history of D.C. Law 6-98, see Historical and Statutory Notes following § 8-107.01.

**Legislative history of Law 18-336.** — Law 18-336, the "Human and Environmental Health Protection Act of 2010", was introduced in Council and assigned Bill No. 18-521, which

was referred to the Committee on Government Operations and the Environment. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 12, 2011, it was assigned Act No. 18-680 and transmitted to both Houses of Congress for its review. D.C. Law 18-336 became effective on March 31, 2011.

**Delegation of Authority.** — Delegation of authority pursuant to Law 6-98, see Mayor's Orders 86-102, June 19, 1986; 87-48, February 17, 1987.

**Editor's notes.** — Section 8 of D.C. Law 18-336 provided: "Sec. 8. Applicability. This act shall apply as of July 1, 2011."

§ 8-107.03. Seller's burden in civil action.

Concerning a civil action against the seller for injuries resulting from violations of this subchapter, a seller has the burden of proving that the cleaning agent complies with § 8-107.02.

(Mar. 25, 1986, D.C. Law 6-98, § 4, 33 DCR 723; Feb. 24, 1987, D.C. Law 6-192, § 6, 33 DCR 7836.)

**Prior Codifications.** — 1981 Ed., § 6-973.

**Legislative history of Law 6-98.** — For legislative history of D.C. Law 6-98, see Historical and Statutory Notes following § 8-107.01.

**Legislative history of Law 6-192.** — Law 6-192, the "Technical Amendments Act of 1986," was introduced in Council and assigned Bill

No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1986 and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

§ 8-107.04. Criminal prosecutions; penalties for violations of subchapter.

(a) If the Mayor determines that a cleaning agent does not comply with § 8-107.02(a) or (b) and has not been exempted according to § 8-107.02(e), then the Mayor shall bring an action for criminal violation of this subchapter in the Superior Court of the District of Columbia.

(b) A person who uses a cleaning agent in violation of this subchapter shall be fined no more than \$15.

(c) A person who offers for sale at retail or furnishes a cleaning agent in violation of this subchapter shall be subject to a fine, upon conviction, not to exceed \$500 for the 1st offense and a fine not to exceed \$1,000 for the second and subsequent offenses.

(d) The Mayor may seize any cleaning agent held for sale in violation of this subchapter. Cleaning agents seized under this subsection shall be forfeited to the District of Columbia.

(e) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this subchapter shall be pursuant to Chapter 18 of Title 2.

(Mar. 25, 1986, D.C. Law 6-98, § 5, 33 DCR 723; Mar. 8, 1991, D.C. Law 8-237, § 17, 38 DCR 314.)

**Prior Codifications.** — 1981 Ed., § 6-974.

**Legislative history of Law 6-98.** — For legislative history of D.C. Law 6-98, see Historical and Statutory Notes following § 8-107.01.

**Legislative history of Law 8-237.** — Law 8-237, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990," was introduced in Council and assigned Bill No. 8-203, which was referred to the Com-

mittee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

**Delegation of Authority.** — Delegation of authority pursuant to Law 6-98, see Mayor's Order 87-48, February 17, 1987.

*Subchapter IV-A. Restrictions on Bisphenol-A, Polybrominated Diphenyl Ethers, and Perchloroethylene.*

**§ 8-108.01. Restrictions on bisphenol-A.**

(a) Except as provided in subsection (b) of this section, no individual or legal entity shall manufacture, sell, offer for sale, or distribute in commerce any empty bottle, cup, or other container that:

(1) Contains bisphenol-A; and

(2) Is designed or intended by the manufacturer to be filled with food or liquid for consumption by a child under the age of 4.

(b) Facilities licensed to provide medical care may use Food and Drug Administration-approved, medically essential products containing bisphenol-A if a suitable alternative is unavailable.

(Mar. 31, 2011, D.C. Law 18-336, § 2, 58 DCR 605.)

**Legislative history of Law 18-336.** — Law 18-336, the “Human and Environmental Health Protection Act of 2010”, was introduced in Council and assigned Bill No. 18-521, which was referred to the Committee on Government Operations and the Environment. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 12, 2011, it was assigned Act No. 18-680 and transmitted to both Houses of Congress for its review. D.C. Law 18-336 became effective on March 31, 2011.

**Delegation of Authority.** — Delegation of Authority under D.C. Law 18-336, to the Director of the District Department of the Environment under the Human and Environmental Health Protection Act of 2010, see Mayor’s Order 2011-153, September 7, 2011 (58 DCR 8091).

**Editor’s notes.** — Section 8 of D.C. Law 18-336 provided: “Sec. 8. Applicability. This act shall apply as of July 1, 2011.”

**§ 8-108.02. Prohibitions on polybrominated diphenyl ethers.**

(a) No person or legal entity shall manufacture, sell, offer for sale, or distribute any product containing the penta or octa mixtures of polybrominated diphenyl ethers; provided, that subsection (a) of this section shall not apply to original equipment manufacturer replacement parts or equipment for vehicles manufactured prior to March 31, 20011, or to used vehicles.

(b) Except as provided in subsection (c) of this section, after January 1, 2013, no person or legal entity shall manufacture, sell, offer for sale, or distribute any of the following products:

(1) A mattress or mattress pad that contains the deca mixture of polybrominated diphenyl ethers (“Deca-BDE”);

(2) Upholstered furniture intended for indoor use in a home or other residential occupancy that contains Deca-BDE; or

(3) A television, monitor, or computer that has a plastic housing that contains Deca-BDE.

(c) The restrictions in subsection (b) of this section shall not apply to the following products containing Deca-BDE:

(1) Transportation vehicles or products or parts for use in transportation vehicles or transportation equipment;



- (2) Products or equipment used in industrial or manufacturing processes;
- (3) Products for use in a medical context, including a hospital, treatment facility, or nursing home; or
- (4) Electronic wiring and cable used for power transmission.
- (d) After January 1, 2014, no person or legal entity shall manufacture, sell, offer for sale, or distribute any product containing Deca-BDE; provided, that this section shall not apply to the following:
  - (1) A retailer that is in possession of a product prohibited for manufacture, lease, sale, or distribution for sale or lease under subsections (b) and (c) of this section from selling, recycling, or otherwise disposing of a product that is in the retailer's or lessor's inventory on or after the date that the prohibition takes effect;
  - (2) A person or legal entity from recycling a product that contains Deca-BDE;
  - (3) A person or legal entity from selling, leasing, recycling, or otherwise disposing of a product that contains recycled Deca-BDE;
  - (4) Any activity involving a product that contains Deca-BDE that occurs subsequent to the 1st sale at retail;
  - (5) Products for use in a medical context, including a hospital, treatment facility, or nursing home if a suitable substitute is not available;
  - (6) Vehicles manufactured prior to model year 2016, replacement parts or equipment for vehicles manufactured prior to model year 2016, or used vehicles; or
  - (7) Vehicles, replacements parts or replacement equipment for vehicles manufactured during or after model year 2016 if the use of a Deca-BDE-free alternative would create a substantial and unreasonable hardship for manufacturers or consumers.

(Mar. 31, 2011, D.C. Law 18-336, § 3, 58 DCR 605.)

**Legislative history of Law 18-336.** — For history of Law 18-336, see notes under § 8-108.01.

**Editor's notes.** — Section 13 of D.C. Law 19-191 added a subsection (e) concerning a de

minimis exemption for products affected by this section.

Section 14(a) of D.C. Law 19-191 provided that §§ 1 through 5 and 8 through 13 of the act shall apply as of October 1, 2013.

### § 8-108.03. Restrictions on the use of perchloroethylene and n-propyl bromide in dry cleaning.

- (a) After January 1, 2014, no person or legal entity shall install a machine designed to use perchloroethylene or n-propyl bromide as a cleaning agent for clothes or other fabrics.
- (b) After January 1, 2029, no person or legal entity shall use perchloroethylene or n-propyl bromide as a cleaning agent for clothes or other fabrics.
- (c) For the purposes of this section, the term a “child-occupied facility” means a building, or portion of a building, which, as part of its function, receives children under 6 years of age on a regular basis and is required to obtain a certificate of occupancy as a precondition to performing that function. The term “child-occupied facility” includes a daycare center, nursery, preschool

center, kindergarten classroom, child development center, child development home, child development facility, child-placing agency, infant care center, or similar entity. The location of a child-occupied facility as part of a larger structure does not make the entire structure a child-occupied facility. Only the portion of the facility occupied or regularly visited by children 6 years of age shall be considered the Child-occupied facility.

(d) Beginning 12 months after April 20, 2013:

(1) A dry cleaning establishment shall use perchloroethylene or n-propyl bromide as a cleaning agent for clothes or other fabrics only after obtaining a source category permit from the District Department of the Environment in accordance with Chapter 2 of Title 20 of the District of Columbia Municipal Regulations (20 DCMR § 200 et seq.).

(2) No permit shall be issued to a dry cleaning establishment to use perchloroethylene or n-propyl bromide as a cleaning agent for clothes or other fabrics that is located within 200 feet of an existing child-occupied facility. The 200-foot restriction shall not apply at a location where a dry cleaning establishment has used perchloroethylene or n-propyl bromide within 90 days before April 20, 2013.

(Mar. 31, 2011, D.C. Law 18-336, § 4, 58 DCR 605; Apr. 20, 2013, D.C. Law 19-262, § 302, 60 DCR 1300.)

**Effect of amendments.** — The 2013 amendment by D.C. Law 19-262 rewrote the section heading, which formerly read: “Phase out of perchloroethylene in dry cleaning”; substituted “perchloroethylene or n-propyl bromide” for “perchloroethylene” in (a) and (b); and added (c) and (d).

**Legislative history of Law 18-336.** — For history of Law 18-336, see notes under § 8-108.01.

**Legislative history of Law 19-262.** — Law 19-262, the “Sustainable DC Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-756. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 16, 2013, it was assigned Act No. 19-615 and transmitted to Congress for its review. D.C. Law 19-262 became effective on Apr. 20, 2013.

## § 8-108.04. Penalties.

(a) A violation of this subchapter shall be a civil infraction for purposes of Chapter 18 of Title 2 [§ 2-1801.01 et seq.]. Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this subchapter, or the rules issued under authority of this subchapter, pursuant to Chapter 18 of Title 2 [§ 2-1801.01 et seq.]. Adjudication of any infractions shall be pursuant to Chapter 18 of Title 2 [§ 2-1801.01 et seq.]. This section shall not limit the enforcement of subchapter IV of this chapter [§ 8-107.02].

(b) Pursuant to § 8-108.05, the Mayor shall issue rules to implement the provisions of this section 90 days after March 31, 2011.

(Mar. 31, 2011, D.C. Law 18-336, § 5, 58 DCR 605.)

**Legislative history of Law 18-336.** — For history of Law 18-336, see notes under § 8-108.01.

§ 8-108.05. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this subchapter.

(Mar. 31, 2011, D.C. Law 18-336, § 6, 58 DCR 605.)

**Cross references.** — Public utilities, environmental impact statement requirements, see § 34-2601.

Environmental Quality Improvement Act of 1970, see 42 U.S.C. § 4321 et seq.

National Environmental Policy Act of 1969, see 42 U.S.C. § 4321 et seq.

**Section references.** — This section is referenced in § 8-108.04.

**Legislative history of Law 18-336.** — For history of Law 18-336, see notes under § 8-108.01.

*Subchapter V. Environmental Impact Statements.*

§ 8-109.01. Purpose.

The purpose of this subchapter is to promote the health, safety and welfare of District of Columbia (“District”) residents, to afford the fullest possible preservation and protection of the environment through a requirement that the environmental impact of proposed District government and privately initiated actions be examined before implementation and to require the Mayor, board, commission, or authority to substitute or require an applicant to substitute an alternative action or mitigating measures for a proposed action, if the alternative action or mitigating measures will accomplish the same purposes as the proposed action with minimized or no adverse environmental effects.

(Oct. 18, 1989, D.C. Law 8-36, § 2, 36 DCR 5741.)

**Prior Codifications.** — 1981 Ed., § 6-981.

**Emergency legislation.** — For temporary amendment of section, see § 12 of the Solid Waste Facility Permit Emergency Act of 1995 (D.C. Act 11-144, October 23, 1995, 42 DCR 6044).

**Legislative history of Law 8-36.** — Law 8-36, the “District of Columbia Environmental Policy Act of 1989,” was introduced in Council and assigned Bill No. 8-8, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on June 27, 1989 and July 11, 1989, respectively. Signed by the Mayor on July 27, 1989, it was assigned

Act No. 8-65 and transmitted to both Houses of Congress for its review.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 8-36, see Mayor’s Order 92-151, December 1, 1992.

Delegation of authority pursuant to D.C. Law 8-116, the “Asbestos Licensing and Control Act of 1990”, see Mayor’s Order 98-51, April 15, 1998 (45 DCR 2697).

Delegation of authority pursuant to D.C. Law 8-36, the “District of Columbia Environmental Policy Act of 1989”, see Mayor’s Order 98-86, May 29, 1998 (45 DCR 3980).

CASE NOTES

ANALYSIS

In general.  
Review.

**In general.**

In reviewing an Environmental Impact

Statement (EIS) claim of a plaintiff claiming procedural injury, a court must examine whether the demonstrably increased risk of serious environmental harm shown actually threatens the plaintiff’s particular interests before that plaintiff may have a particularized



injury sufficient for standing. *Friends of Tilden Park, Inc. v. District of Columbia*, 806 A.2d 1201, 2002 D.C. App. LEXIS 530 (2002).

Board of Zoning Adjustment (BZA) was not required by Environmental Policy Act to await preparation of environmental impact statement (EIS) before deciding whether variance was required for construction of recycling center on property zoned for commercial and light manufacturing; in deciding that variance was not required, BZA's order did not result in issuance of any license, permit, certificate, or authorization which under the Act would have required an EIS. D.C. Code 1981, §§ 6-981 to

6-990. *Concerned Citizens of Brentwood v. District of Columbia Bd. of Zoning Adjustment*, 634 A.2d 1234, 1993 D.C. App. LEXIS 318 (1993).

#### Review.

Because the Zoning Commission has no particular expertise in applying the District of Columbia Environmental Policy Act (DCEPA), courts owe no deference to its interpretation, and therefore examine the statute *de novo*. *Foggy Bottom Ass'n v. D.C. Zoning Comm'n*, 979 A.2d 1160, 2009 D.C. App. LEXIS 372 (2009).

## § 8-109.02. Definitions.

For the purposes of this subchapter, the term:

(1) "Action" means (A) a new project or activity directly undertaken by the Mayor or a board, commission, or authority of the District government or (B) a project or activity that involves the issuance of a lease, permit, license, certificate, other entitlement, or permission to act by an agency of the District government.

(2) "Major action" means any action that costs over \$1,000,000 and that may have a significant impact on the environment, except that, subject to the exemptions in § 8-109.06, the Mayor, pursuant to rules issued in accordance with § 8-109.09, shall classify any action that costs less than \$1,000,000 as a major action, if the action imminently and substantially affects the public health, safety, or welfare. The cost level of \$1,000,000 shall be based on 1989 dollars adjusted annually according to the Consumer Price Index.

(3) "Environment" means the physical conditions that will be affected by a proposed action, including but not limited to, the land, air, water, minerals, flora and fauna.

(4) "Hazardous substance" means any solid, liquid, gaseous, or semisolid form or combination that, because of its nature, concentration, physical, chemical, or infectious characteristic, as established by the Mayor, may:

(A) Cause or significantly contribute to an increase in mortality or an increase in a serious, irreversible or incapacitating reversible illness; or

(B) Pose a substantial hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed, including substances that are toxic, carcinogenic, flammable, irritants, strong sensitizers, or that generate pressure through decomposition, heat, or other means and containers and receptacles previously used in the transportation, storage, use, or application of hazardous substances.

(5) "Lead agency" means the District agency designated by the Mayor to have primary responsibility for the preparation of an Environmental Impact Statement ("EIS").

(6) "Functional equivalent" means the full and adequate description and analysis of the environmental impact of a proposed action by an agency, board, commission, or authority of the District government that examines or imposes environmental controls under procedures that provide for notice, opportunity for public comment, and the creation of a reviewable record.

(Oct. 18, 1989, D.C. Law 8-36, § 3, 36 DCR 5741.)

**Section references.** — This section is referenced in § 8-151.03 and § 8-1051.

**Prior Codifications.** — 1981 Ed., § 6-982.

**Legislative history of Law 8-36.** — For legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

#### CASE NOTES

**Major action.**

University's development plan was not a "major action" that triggered environmental impact statement (EIS) requirement of the District of Columbia Environmental Policy Act (DCEPA), when university applied for approval of a new campus plan and first-stage approval of a planned unit development (PUD) with Zoning Commission, as an "action" under the DCEPA involved the issuance of a lease, permit, license, certificate, other entitlement or

permission to act, the Commission's approval of the applications did not allow university to begin construction but instead only set forth the provisions under which the Commission allowed university to continue with the zoning process, and university would be only allowed to apply for and obtain building permits after it received second-stage PUD approval. *Foggy Bottom Ass'n v. D.C. Zoning Comm'n*, 979 A.2d 1160, 2009 D.C. App. LEXIS 372 (2009).

### § 8-109.03. Environmental Impact Statement requirements.

(a) Whenever the Mayor or a board, commission, authority, or person proposes or approves a major action that is likely to have substantial negative impact on the environment, if implemented, the Mayor, board, commission, authority, or person shall prepare or cause to be prepared, and transmit, in accordance with subsection (b) of this section, a detailed EIS at least 60 days prior to implementation of the proposed major action, unless the Mayor determines that the proposed major action has been or is subject to the functional equivalent of an EIS. The EIS shall be written in a concise manner. The EIS shall describe and, where appropriate, analyze:

- (1) The goals and nature of the proposed major action and its environment;
- (2) The relationship of the proposed major action to the goals of the adopted Comprehensive Plan, requirements as promulgated by the Zoning Commission, and any District or federal environmental standards;
- (3) Any adverse environmental impact that cannot be avoided if the proposed major action is implemented;
- (4) Alternatives to the proposed major action, including alternative locations and the adverse and beneficial effects of the alternatives;
- (5) Any irreversible and irretrievable commitment of resources involved in the implementation of the proposed major action;
- (6) Mitigation measures proposed to minimize any adverse environmental impact;
- (7) The impact of the proposed major action on the use and conservation of energy resources, if applicable and significant;
- (8) The cumulative impact of the major action when considered in conjunction with other proposed actions;
- (9) The environmental effect of future expansion or action, if expansion or action is a reasonably foreseeable consequence of the initial major action and



the future expansion or action will likely change the scope or nature of the initial major action or its environmental effects;

(10) Responses to comments provided by the Council, any affected Advisory Neighborhood Commission, and interested members of the public; and

(11) Any additional information that the Mayor or a board, commission, or authority determines to be helpful in assessing the environmental impact of any proposed major action and the suggested alternatives.

(b) The Mayor, board, commission, or authority shall transmit a copy of any EIS prepared pursuant to subsection (a) of this section to the Council, any District agency that has responsibility for implementing the major action or special expertise with respect to any environmental impact involved, and any affected Advisory Neighborhood Commission. A copy of the EIS shall be made available for review by the public in the main office of the agency primarily responsible for implementing or permitting the proposed major action. The Mayor, board, commission, or authority shall provide a reasonable period consistent with subchapter I of Chapter 5 of Title 2, for comment on any EIS required to be prepared pursuant to subsection (a) of this section. If 25 registered voters in an affected single member district request a public hearing on an EIS or supplemental EIS or there is significant public interest, the Mayor, board, commission, or authority shall conduct a public hearing pursuant to the rules issued in accordance with § 8-109.09(a).

(c)(1) The Mayor, board, agency, commission, or authority of the District government shall determine within 30 days, excluding Saturdays, Sundays, and legal holidays, of receipt of an application for a proposed major action whether an EIS is required, if the action involves the grant or issuance of a lease, permit, license, certificate, or other entitlement by a District agency.

(2) If the Mayor, or a board, commission, or authority of the District government determines that an EIS is not required for a major action that is likely to involve the creation, use, transportation, storage, or disposal of a hazardous substance, the Mayor shall prepare, make available for public inspection, and transmit to the Council a written determination that describes why an EIS is not required prior to the grant or issuance of any applicable lease, permit, license, certificate, entitlement, or permission to act.

(3) If the major action involves the grant or issuance to an applicant of a lease, permit, license, certificate, or other entitlement by a District agency:

(A) The agency shall notify the applicant, in writing, if a determination has been made that an EIS is required. Notice of the determination and the findings that support the determination shall be kept on file by the Mayor.

(B) The Mayor, board, commission, or authority may require an applicant to prepare an EIS. A nongovernmental applicant shall be charged a fee to cover the cost of agency review of the EIS. No lease, permit, license, certificate, or other entitlement shall be issued, unless the applicant required to prepare an EIS has completed the EIS in compliance with this subchapter and paid any fee charged pursuant to this paragraph.

(C) The applicant shall assist the Mayor, or the board, commission, or authority at any stage of the review of the proposed major action by timely submitting all relevant information concerning impact, costs, benefits, and



alternatives. The Mayor, board, commission, or authority shall deny a proposed action, if the applicant fails to submit relevant information as specified in rules promulgated pursuant to § 8-109.09.

(Oct. 18, 1989, D.C. Law 8-36, § 4, 36 DCR 5741.)

**Section references.** — This section is referenced in § 8-109.05.

**Prior Codifications.** — 1981 Ed., § 6-983.

**Legislative history of Law 8-36.** — For legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

## CASE NOTES

### ANALYSIS

In general.  
Major action.

#### In general.

The procedural injury implicit in agency failure to prepare or require an Environmental Impact Statement (EIS)—the creation of a risk that serious environmental impacts will be overlooked—is itself a sufficient injury in fact to support standing, provided this injury is alleged by a plaintiff having a sufficient geographical nexus to the site of the challenged project to expect to suffer whatever environmental consequences the project may have. *Friends of Tilden Park, Inc. v. District of Columbia*, 806 A.2d 1201, 2002 D.C. App. LEXIS 530 (2002).

Nonprofit organization's assertion that its inability to weigh in on an environmental impact statement (EIS) for apartment complex construction jeopardized its mission and purpose did not identify concrete interest at stake sufficient to establish procedural injury as basis for standing for organization to enforce procedural requirement for EIS. *Friends of Tilden Park, Inc. v. District of Columbia*, 806 A.2d 1201, 2002 D.C. App. LEXIS 530 (2002).

Nonprofit organization's inability to disseminate information that would have been contained in an environmental impact statement (EIS) did not amount to concrete harm to organization's programmatic activities resulting from District of Columbia's failure to order EIS for apartment complex construction project sufficient to establish informational injury as basis for organization's standing to require preparation of EIS; there was no evidence that EIS information was essential to organization's ac-

tivities or that the lack of information would render those activities infeasible. *Friends of Tilden Park, Inc. v. District of Columbia*, 806 A.2d 1201, 2002 D.C. App. LEXIS 530 (2002).

Board of Zoning Adjustment (BZA) was not required by Environmental Policy Act to await preparation of environmental impact statement (EIS) before deciding whether variance was required for construction of recycling center on property zoned for commercial and light manufacturing; in deciding that variance was not required, BZA's order did not result in issuance of any license, permit, certificate, or authorization which under the Act would have required an EIS. D.C. Code 1981, §§ 6-981 to 6-990. *Concerned Citizens of Brentwood v. District of Columbia Bd. of Zoning Adjustment*, 634 A.2d 1234, 1993 D.C. App. LEXIS 318 (1993).

#### Major action.

University's development plan was not a "major action" that triggered environmental impact statement (EIS) requirement of the District of Columbia Environmental Policy Act (DCEPA), when university applied for approval of a new campus plan and first-stage approval of a planned unit development (PUD) with Zoning Commission, as an "action" under the DCEPA involved the issuance of a lease, permit, license, certificate, other entitlement or permission to act, the Commission's approval of the applications did not allow university to begin construction but instead only set forth the provisions under which the Commission allowed university to continue with the zoning process, and university would be only allowed to apply for and obtain building permits after it received second-stage PUD approval. *Foggy Bottom Ass'n v. D.C. Zoning Comm'n*, 979 A.2d 1160, 2009 D.C. App. LEXIS 372 (2009).

## § 8-109.04. Adverse impact findings.

If the EIS identifies an adverse effect from a proposed major action and contains a finding that the public health, safety, or welfare is imminently and substantially endangered by the action, the Mayor, board, commission, or authority of the District government shall disapprove the action, unless the

applicant proposes mitigating measures or substitutes a reasonable alternative to avoid the danger.

(Oct. 18, 1989, D.C. Law 8-36, § 5, 36 DCR 5741.)

**Prior Codifications.** — 1981 Ed., § 6-984. legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.  
**Legislative history of Law 8-36.** — For

### § 8-109.05. Supplemental EIS.

(a) The Mayor, or a board, commission, authority, or person shall prepare a supplemental EIS if:

(1) The agency or applicant makes or proposes a substantial change in the proposed action that is relevant to environmental concerns; or

(2) There are significant new circumstances or information relevant to environmental concerns that affect the proposed action or the impact of the proposed action.

(b) The supplemental EIS shall be prepared, transmitted, and funded in accordance with the requirements of § 8-109.03.

(Oct. 18, 1989, D.C. Law 8-36, § 6, 36 DCR 5741.)

**Prior Codifications.** — 1981 Ed., § 6-985. legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.  
**Legislative history of Law 8-36.** — For

### § 8-109.06. Exemptions.

(a) No EIS shall be required by this subchapter with respect to an action:

(1) For which an EIS has been prepared in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.) ("NEPA"), and its implementing regulations, or a determination has been made under NEPA and its implementing regulations that no impact statement is required due to a finding of no significant impact or a finding that the proposed action is categorically excluded from consideration;

(2) For which a request has been made for the authorization or allocation of funds for a project that involves only a feasibility or planning study for a possible future action that has not been approved, adopted, or funded. The study, however, shall include consideration of environmental factors;

(3) Whose impact on the environment has been considered in the functional equivalent of an EIS;

(4) That has reached a critical stage of completion prior to October 18, 1989 and the cost of altering or abandoning the action for environmental reasons outweighs the benefits derived from the action;

(5) Of an environmentally protective regulatory nature;

(6) Exempted by rules approved pursuant to § 8-109.09(a);

(7) Within the Central Employment Area as defined in the Zoning Regulations of the District of Columbia;

(8) For which a lease, permit, certificate, or any other entitlement or permission to act by a District government agency has been approved before December 31, 1989; or

(9) Granting an interim operating permit to an existing solid waste facility pursuant to § 8-1053.

(b) The Mayor or a board, commission, authority, or person shall prepare a supplemental EIS for any action exempted pursuant to subsection (a)(1) or (a)(3) of this section, if a substantial and relevant question remains with regard to the impact of the action on the environment that would otherwise be addressed in an EIS prepared in accordance with this subchapter.

(Oct. 18, 1989, D.C. Law 8-36, § 7, 36 DCR 5741; Feb. 27, 1996, D.C. Law 11-94, § 12, 42 DCR 7172; Apr. 9, 1997, D.C. Law 11-255, § 13, 44 DCR 1271.)

**Section references.** — This section is referenced in § 8-109.02.

**Prior Codifications.** — 1981 Ed., § 6-986.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12 of Solid Waste Facility Permit Temporary Act of 1994 (D.C. Law 10-251, March 23, 1995, law notification 42 DCR 1650).

For temporary (225 day) amendment of section, see § 12 of Solid Waste Facility Permit Temporary Act of 1995 (D.C. Law 11-80, February 6, 1996, law notification 43 DCR 776).

**Emergency legislation.** — For temporary amendment of section, see § 12 of the Solid Waste Facility Permit Emergency Act of 1994 (D.C. Act 10-384, December 28, 1994, 42 DCR 45).

**Legislative history of Law 8-36.** — For

legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

**Legislative history of Law 11-94.** — Law 11-94, the "Solid Waste Facility Permit Act of 1995," was introduced in Council and assigned Bill No. 11-036, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on November 7, 1995, and December 5, 1995, respectively. Signed by the Mayor on December 18, 1995, it was assigned Act No. 11-177 and transmitted to both Houses of Congress for its review. D.C. Law 11-94 became effective on February 27, 1996.

**Legislative history of Law 11-255.** — For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 8-101.06.

## CASE NOTES

### In general.

On university's application for special exception for new university law school, Advisory Neighborhood Committee (ANC) waived its argument with respect to interpretation of District of Columbia Environmental Protection Act, where the group did not identify problem

to Board of Zoning Adjustment (BZA) or ask for ruling on it. D.C. Code 1981, §§ 6-981 to 6-990, 6-982(a), 6-983(a, c), 6-986(a)(8). Glenbrook Rd. Ass'n v. District of Columbia Bd. of Zoning Adjustment, 605 A.2d 22, 1992 D.C. App. LEXIS 73 (1992).

## § 8-109.07. Lead agencies; files.

(a) The Mayor shall designate a lead agency to prepare an EIS or supplemental EIS when the preparation of the EIS requires the input of more than 1 agency. The lead agency shall, if necessary, oversee the preparation of a single, omnibus EIS, ensure reasoned consideration of and distinction among any inconsistent conclusions, and promote coordination with public and private organizations and individuals with a special expertise or recognized interest.

(b) The Mayor shall maintain a file of all EIS's and supplemental EIS's for public review.

(Oct. 18, 1989, D.C. Law 8-36, § 8, 36 DCR 5741.)

**Prior Codifications.** — 1981 Ed., § 6-987.

**Legislative history of Law 8-36.** — For

legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.



## § 8-109.08. Judicial review.

Where an EIS is prepared in connection with the issuance or approval of a lease, permit, license, certificate, or any other entitlement or permission to act by a District government agency that is subject to administrative or judicial review under applicable laws or regulations, the administrative or judicial review shall be governed by the applicable laws and regulations.

(Oct. 18, 1989, D.C. Law 8-36, § 9, 36 DCR 5741.)

**Prior Codifications.** — 1981 Ed., § 6-988. legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

**Legislative history of Law 8-36.** — For

## § 8-109.09. Rules.

(a) Within 180 days of October 18, 1989, the Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue proposed rules to implement the provisions of this subchapter, including rules that establish categorical exemptions for major actions that would have no significant impact on the environment. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(b) The District Department of the Environment shall issue rules to assist District agencies in the review of an environmental impact screening form and in the preparation of an EIS, pursuant to subchapter I of Chapter 5 of Title 2.

(Oct. 18, 1989, D.C. Law 8-36, § 10, 36 DCR 5741; Sept. 24, 2010, D.C. Law 18-223, § 6062(a), 57 DCR 6242.)

**Section references.** — This section is referenced in § 8-109.02, § 8-109.03, and § 8-109.06.

**Prior Codifications.** — 1981 Ed., § 6-989.

**Effect of amendments.** — D.C. Law 18-223 rewrote subsec. (b), which had read as follows: “(b) Within 180 days of October 18, 1989, the Department of Consumer and Regulatory Affairs shall issue rules to assist District agencies in the preparation of an EIS, pursuant to subchapter I of Chapter 5 of Title 2.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 6062(a) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 8-36.** — For legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 8-102.05.

**Short title.** — Short title: Section 6061 of D.C. Law 18-223 provided that subtitle G of

title VI of the act may be cited as the “Environmental Impact Screening Forms and Environmental Impact Statements Amendment Act of 2010”.

**Editor’s notes.** — Approval and disapproval of proposed Environmental Policy Act rules: Pursuant to Resolution 8-314, the “District of Columbia Environmental Policy Act of 1989 Proposed Rulemaking Approval & Disapproval Resolution of 1990,” effective December 21, 1990, the Council approved, in part, and disapproved, in part, the proposed rules to implement the District of Columbia Environmental Policy Act of 1989.

District of Columbia Environmental Policy Act Proposed Rulemaking Approval Resolution of 1994: Pursuant to Proposed Resolution 11-25, deemed approved February 18, 1995, Council approved the proposed rulemaking adopting Chapter 72 (Environmental Policy Act Regulations) of Title 20, DCMR, issued pursuant to the “District of Columbia Environmental Policy Act of 1989.”

## § 8-109.10. Construction.

Nothing in this subchapter shall be construed to supercede the requirements of District government zoning statutes and regulations or federal and District government environmental statutes or regulations.

(Oct. 18, 1989, D.C. Law 8-36, § 11, 36 DCR 5741.)

**Prior Codifications.** — 1981 Ed., § 6-990. legislative history of D.C. Law 8-36, see Historical and Statutory Notes following § 8-109.01.  
**Legislative history of Law 8-36.** — For

## § 8-109.11. Required Environmental Impact Statements.

Notwithstanding any other provision of this subchapter, a full EIS shall be required for the construction of any new solid waste facility or the substantial modification of an existing structure presently used as, or intended to be used as, a solid waste facility, as the term “solid waste facility” is defined in Chapter 10 of Title 8, regardless of the cost of construction or modification.

(Oct. 18, 1989, D.C. Law 8-36, § 11a, as added Apr. 29, 1998, D.C. Law 12-86, § 802, 45 DCR 1172.)

**Prior Codifications.** — 1981 Ed., § 6-990.1.

**Legislative history of Law 12-86.** — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on

Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 26, 1997, and December 19, 1997, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

## § 8-109.12. Fees.

Whenever the Mayor reviews an environmental impact screening form or prepares, or causes to be prepared, an EIS or supplemental EIS under this subchapter, the Mayor may impose a fee on the applicant to compensate the Mayor for the costs of reviewing the environmental impact screening form or preparing the EIS or supplemental EIS.

(Oct. 18, 1989, D.C. Law 8-36, § 11b, as added Sept. 24, 2010, D.C. Law 18-223, § 6062(b), 57 DCR 6242.)

**Cross references.** — Asbestos workers, scope of practice, see § 47-2853.51.

**Emergency legislation.** — For temporary (90 day) addition of section, see § 6062(b) of Fiscal Year 2011 Budget Support Emergency

Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 8-102.05.

## *Subchapter VI. Asbestos Licensing and Control.*

## § 8-111.01. Definitions.

For purposes of this subchapter, the term:

- (1) “Asbestos” means any material that contains more than 1% by weight

of an asbestiform variety of serpentinite or chrysotile, riebackite or crocidolite, cummingtonite, grunerite, anthophyllite, or tremolite.

(2) “Asbestos abatement” means the removal, encapsulation, enclosure, disposal, or transportation of asbestos or material that contains asbestos.

(3) “Business entity” means a partnership, firm, association, corporation, or sole proprietorship that is engaged in asbestos abatement.

(4) “Asbestos worker” means a person who is engaged in asbestos abatement.

(5) “Demolition” means to wreck or remove a load-supporting structural member of a facility or handling operation.

(6) “Encapsulate” means to coat, bind, or resurface a wall, ceiling, pipe, or other structure to prevent friable asbestos or material that contains asbestos from becoming airborne.

(7) “Friable asbestos material” means any material that can be crumbled, pulverized, reduced to powder by hand pressure, or that emits or can be expected to emit fibers into the air under normal use or maintenance.

(8) “Mayor” means the Mayor of the District of Columbia.

(9) “Person” means an individual or nonbusiness entity, including a District of Columbia (“District”) government employee.

(10) “Structural member” means a load-supporting member, including a beam or load-supporting wall, or any non-supporting member, including a ceiling or nonload-supporting wall.

(May 1, 1990, D.C. Law 8-116, § 2, 37 DCR 1641.)

**Prior Codifications.** — 1981 Ed., § 6-991.1.

**Legislative history of Law 8-116.** — Law 8-116, the “Asbestos Licensing and Control Act of 1990,” was introduced in Council and assigned Bill No. 8-131, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on January 30, 1990, and February 13, 1990, respectively. Signed by the Mayor on February 28, 1990, it was assigned Act No.

8-170 and transmitted to both Houses of Congress for its review.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 8-116, the “Asbestos Licensing and Control Act of 1990,” see Mayor’s Order 98-51, April 15, 1998 (45 DCR 2697).

Delegation of authority under D.C. Act 8-116, the District of Columbia Asbestos Licensing and Control Act of 1990, see Mayor’s Order 92-152, December 1, 1992.

## § 8-111.02. Asbestos worker license.

(a) To obtain a license as an asbestos worker, a person shall establish to the satisfaction of the Board of Industrial Trades that the applicant has:

(1) Successfully completed a course of instruction on asbestos abatement that has been approved by the Board;

(2) Provided such additional evidence as the Board or the federal government has determined is necessary for the occupation of asbestos workers; and

(3) Complied with other standards required for licensure by the Non-Health Related Professions and Occupations Licensure Act of 1998.

(b) An asbestos worker license shall expire 2 years from the date of issuance. A license may be renewed for additional 2-year periods if the asbestos worker submits a renewal application with the renewal fee to the Mayor.



(May 1, 1990, D.C. Law 8-116, § 3, 37 DCR 1641; Apr. 20, 1999, D.C. Law 12-261, § 1240, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 6-991.2.

**Legislative history of Law 8-116.** — For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

**Legislative history of Law 12-261.** — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole.

The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

**References in text.** — “The Non-Health Related Professions and Occupations Licensure Act of 1998,” referenced in (a)(3), is title I of D.C. Law 12-261.

### § 8-111.03. Business entity license and permit.

(a) To obtain or renew a license to engage in asbestos abatement, a business entity shall:

(1) Train employees and agents to comply with federal standards for asbestos abatement;

(2) Certify that employees and agents have completed a course of instruction on asbestos abatement that has been approved by the Mayor;

(3) Provide certification to the Mayor that the business entity is able to comply with all applicable federal standards for asbestos abatement and all applicable District environmental, safety, and health laws or rules;

(4) Provide certification to the Mayor that the business entity has access to an approved asbestos disposal site to deposit any asbestos waste that the business entity generates during the term of the license;

(5) Utilize only licensed asbestos workers;

(6) Provide certification to the Mayor that the business entity will use appropriate equipment and materials;

(7) Provide the Mayor with a copy of the respiratory protection program of the business entity;

(8) Provide evidence of a license to haul asbestos or material that contains asbestos or of an agreement with a commercial hauler who is licensed to transport asbestos or material that contains asbestos;

(9) Provide disclosure to the Mayor of any violation of applicable federal or District environmental, safety, health, licensing, or construction code law, rule, or regulation relating to asbestos abatement for which the business entity has been cited, and provide certification to the Mayor that any penalty or fee assessed to the business entity by a federal or District agency has been paid in full; and

(10) Meet any other standards that the Mayor deems necessary.

(b) A license for a business entity to engage in asbestos abatement shall expire 2 years from the date of issuance. A license may be renewed for 2-year periods if the business entity submits a renewal application with the renewal fee to the Mayor.

(c) A business entity shall apply for a permit prior to the commencement of each asbestos abatement project. Before a permit may be issued, the business

entity must demonstrate that the business entity will perform the work in compliance with the Construction Code, this subchapter, and rules issued pursuant to this subchapter.

(d) Any license issued pursuant to this section shall be issued as an Environmental Materials endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(May 1, 1990, D.C. Law 8-116, § 4, 37 DCR 1641; Apr. 20, 1999, D.C. Law 12-261, § 2003(i), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(k), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 6-991.3.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (d), substituted “an Environmental Materials endorsement to a basic business license under the basic” for “a Class A Environmental Materials endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(k) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August

**Legislative history of Law 8-116.** — For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 8-111.02.

**Legislative history of Law 15-38.** — Law 15-38, the “Streamlining Regulation Act of 2003”, was introduced in Council and assigned Bill No. 15-19, which was referred to Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 3, 2003, and July 8, 2003, respectively. Signed by the Mayor on August 11, 2003, it was assigned Act No. 15-146 and transmitted to both Houses of Congress for its review. D.C. Law 15-38 became effective on October 28, 2003.

## § 8-111.04. Prohibitions.

(a) Except as provided in subsection (b) and (c) of this section, no business entity shall engage in the abatement of asbestos or material that contains asbestos without a permit and license that is issued by the Mayor. No person shall undertake or be employed on an asbestos abatement project unless the person is licensed as an asbestos worker by the Mayor.

(b) The Mayor, by rule, may waive the requirements for a license or permit in the case of an emergency that involves asbestos or material that contains asbestos if the emergency poses a threat to the public health or safety of the District.

(c)(1) The asbestos worker license, business entity license and permit, and recordkeeping requirements of this subchapter shall not apply to any removal or other activity involving resilient floor covering materials, including sheet vinyl, resilient tile, and associated adhesives, provided that the business entity or persons performing the removal:

(A) Follow the resilient floor covering manufacturers’ recommended work practices for removal;

(B) Are not required to obtain asbestos accreditation under applicable federal asbestos requirements and regulations promulgated by the United States Environmental Protection Agency; and

(C) For removals involving more than 18 square feet of resilient floor covering material, notify the Mayor in writing at least 10 days prior to the

removal of the time, place, and entity performing the removal, and certify that asbestos accreditation is not required under subparagraph (B) of this paragraph.

(2) Any other asbestos requirements promulgated by the Mayor shall treat removals and other activity involving resilient floor covering materials in the same manner as prescribed under applicable federal asbestos requirements, including the National Emission Standard for Hazardous Air Pollutants for Asbestos as promulgated by the United States Environmental Protection Agency.

(May 1, 1990, D.C. Law 8-116, § 5, 37 DCR 1641; Oct. 15, 1993, D.C. Law 10-37, § 2(a), 40 DCR 5817.)

**Section references.** — This section is referenced in § 8-111.09.

**Prior Codifications.** — 1981 Ed., § 6-991.4.

**Legislative history of Law 8-116.** — For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.02.

**Legislative history of Law 10-37.** — D.C. Law 10-37, the “Asbestos Licensing and Con-

trol Act of 1990 Amendment Act of 1993,” was introduced in Council and assigned Bill No. 10-138, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on July 29, 1993, it was assigned Act No. 10-70 and transmitted to both Houses of Congress for its review. D.C. Law 10-37 became effective on October 15, 1993.

## § 8-111.05. Inspection and investigation.

The Mayor is authorized to conduct an on-site inspection of any asbestos abatement project to determine compliance with all federal and District laws or rules applicable to asbestos abatement. The Mayor is authorized to investigate any report of noncompliance with the federal and District laws or rules applicable to asbestos abatement.

(May 1, 1990, D.C. Law 8-116, § 6, 37 DCR 1641.)

**Prior Codifications.** — 1981 Ed., § 6-991.5.

**Legislative history of Law 8-116.** — For

legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

## § 8-111.06. Reprimands; suspensions; revocations.

The Mayor may reprimand an asbestos worker or business entity or suspend or revoke the license or permit of an asbestos worker or business entity, pursuant to § 2-509, if the asbestos worker or business entity:

(1) Attempts to remove or encapsulate asbestos or material that contains asbestos without a license or permit required under this subchapter;

(2) Fraudulently or deceptively obtains or attempts to obtain a license or permit;

(3) Violates any provision of this subchapter or any rule promulgated pursuant to this subchapter; or

(4) Fails to meet any applicable federal or District standard for asbestos abatement.

(May 1, 1990, D.C. Law 8-116, § 7, 37 DCR 1641.)



**Prior Codifications.** — 1981 Ed., § 6-991.6. legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

**Legislative history of Law 8-116.** — For 111.01.

### § 8-111.07. Summary action.

(a) If the Mayor determines that the conduct of an asbestos worker or business entity presents an imminent danger to the public health or safety of the residents of the District, the Mayor may suspend or restrict the license or permit of the asbestos worker or business entity prior to a hearing.

(b) At the time of the suspension or restriction of a license or permit, the Mayor shall provide the asbestos worker or business entity with written notice that states the action that is being taken, the basis for the action, and the right of the asbestos worker or business entity to request a hearing.

(c) An asbestos worker or business entity shall have the right to request a hearing within 3 days of service of notice of the suspension or restriction of the license or permit. The Mayor shall hold a hearing within 3 days of receipt of a timely request and shall issue a decision within 3 days of the hearing.

(d) The Mayor shall inform the asbestos worker or business entity of the decision in writing and provide findings of fact and conclusions of law. The findings shall be supported by reliable, probative, and substantial evidence. The Mayor shall provide a copy of the decision to each party to a case or to the party's attorney of record.

(e) Any person aggrieved by a decision pursuant to this section may file an appeal with the Mayor within 10 days of the decision.

(May 1, 1990, D.C. Law 8-116, § 8, 37 DCR 1641.)

**Prior Codifications.** — 1981 Ed., § 6-991.7. legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

**Legislative history of Law 8-116.** — For 111.01.

### § 8-111.08. Cease and desist order.

If the Mayor determines that a hazardous condition exists that may endanger the public health or safety of the District of Columbia due to noncompliance with federal or District laws or rules on asbestos abatement, the Mayor may issue a cease and desist order to require a violator to cease asbestos abatement operations immediately, remove asbestos workers from the asbestos abatement project area, evacuate appropriate areas of the asbestos abatement project site, or take emergency measures necessary to contain the hazardous condition. Any business entity subject to a cease and desist order may appeal the order within 15 days, but is required to comply with the order pending appeal.

(May 1, 1990, D.C. Law 8-116, § 9, 37 DCR 1641.)

**Prior Codifications.** — 1981 Ed., § 6-991.8. legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

**Legislative history of Law 8-116.** — For 111.01.

§ 8-111.09. Criminal action.

A person who willfully violates § 8-111.04 is guilty of a misdemeanor, and, upon conviction, shall be fined not more than \$5,000 for the 1st offense or \$10,000 for the 2nd or subsequent offense, imprisoned for not more than 1 year, or both. Each day that a violation continues is a separate violation under this subchapter. The fines set forth in this section shall not be limited by § 22-3571.01.

(May 1, 1990, D.C. Law 8-116, § 10, 37 DCR 1641; June 11, 2013, D.C. Law 19-317, § 113(a), 60 DCR 2064.)

**Prior Codifications.** — 1981 Ed., § 6-991.9.

**Effect of amendments.** — The 2013 amendment by D.C. Law 19-317 added the last sentence.

**Legislative history of Law 8-116.** — For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

**Legislative history of Law 19-317.** — Law 19-317, the “Criminal Fine Proportionality Amendment Act of 2012,” was introduced in

Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

**Editor’s notes.** — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 8-111.10. Civil infractions.

Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this subchapter, or the rules authorized by this subchapter, pursuant to Chapter 18 of Title 2.

(May 1, 1990, D.C. Law 8-116, § 11, 37 DCR 1641.)

**Prior Codifications.** — 1981 Ed., § 6-991.10.

**Legislative history of Law 8-116.** — For

legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

§ 8-111.11. Records to be kept by a business entity.

(a) A business entity that is engaged in asbestos abatement shall keep a record of each asbestos abatement project and make the record available to the Mayor.

(b) The records shall include:

- (1) The name and address of the person who supervised the asbestos abatement project;
- (2) The location of and a description of the asbestos abatement project;
- (3) The amount of asbestos or material that contains asbestos that was involved in the asbestos abatement project;
- (4) The commencement and completion date of the asbestos abatement project;
- (5) A summary of the procedures that were used to comply with all applicable District and federal standards for asbestos abatement;
- (6) The name and address of each asbestos disposal site that was used in the asbestos abatement project;

- (7) The location, date, and description of any fiber release episodes;
  - (8) A report of any air sampling, including the location, date, method used, results, and the name and address of any worker who performed the air sampling;
  - (9) Information that relates to asbestos worker training and licensing;
  - (10) The name and address of a certified laboratory that is independent of the business entity and that will conduct analysis of bulk, dust, or air samples during an asbestos abatement project, and the name and address of the owner of the building in which the asbestos abatement project is being conducted; and
  - (11) Any other information that the Mayor deems necessary.
- (c) The business entity or any successor or assignee shall maintain the records required by this section for not less than 30 years.

(May 1, 1990, D.C. Law 8-116, § 12, 37 DCR 1641.)

**Prior Codifications.** — 1981 Ed., § 6- legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-991.11.

**Legislative history of Law 8-116.** — For 111.01.

## § 8-111.12. Mayor's responsibilities.

(a) The Mayor shall make available application forms for asbestos abatement licenses to business entities. The application form shall:

- (1) Request the name and address of the business entity;
- (2) Request a description of the protective clothing and respirators to be used by the business entity and the procedure for use of the protective clothing and respirators;
- (3) Request the name and address of each asbestos disposal site to be used;
- (4) Request a description of the site decontamination procedures to be used;
- (5) Request a description of the asbestos abatement methods to be used by the business entity;
- (6) Request a description of the procedure to be used to handle waste that contains asbestos;
- (7) Request a description of the procedure to be used to monitor the air;
- (8) Request a description of the final cleanup procedure to be used;
- (9) Request the signature of the chief executive officer of the business entity or his or her agent;
- (10) Request evidence that any person to be utilized on an asbestos abatement project is a licensed asbestos worker;
- (11) Outline procedures for the business entity to follow to certify that the business entity is able to comply with applicable federal standards for asbestos abatement and District environmental, safety, or health laws or rules;
- (12) Outline procedures for the business entity to follow to certify that the business entity will use appropriate equipment and materials;
- (13) Outline procedures for the business entity to follow to certify that the business entity has access to an approved asbestos disposal site; and
- (14) Request any other information that the Mayor deems necessary.



(b) Prior to expiration of a license for an asbestos worker or for asbestos abatement by a business entity, the Mayor shall send to an asbestos worker or business entity a renewal notice that states:

- (1) The expiration date of the current license;
- (2) The date that the renewal application must be received by the Mayor for the renewal license to be issued and mailed to the asbestos worker or business entity before the current license expires; and
- (3) The amount of the renewal fee.

(May 1, 1990, D.C. Law 8-116, § 13, 37 DCR 1641.)

**Prior Codifications.** — 1981 Ed., § 6-991.12. legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

**Legislative history of Law 8-116.** — For

### § 8-111.13. Rules.

(a) Within 180 days of May 1, 1990, the Mayor shall submit proposed rules on the control of asbestos and materials that contain asbestos to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 45-day review period, the proposed rules shall be deemed effective. The Mayor shall submit any amendment to the proposed rules to the Council for a 45-day period of review pursuant to this section.

(b) The proposed rules shall include, but not be limited to, the following:

- (1) Criteria for the display of caution signs at an asbestos abatement project site;
- (2) Requirements for wetting asbestos material;
- (3) Requirements for the disposal of asbestos or material that contains asbestos;
- (4) Requirements to clean and monitor an asbestos abatement project site where abatement has occurred;
- (5) Requirements to enclose and seal materials used in an asbestos abatement project;
- (6) Asbestos control procedures for demolition and renovation projects;
- (7) Appropriate exemption standards and alternative procedures for removal, including the use of resilient floor covering manufacturers' recommended work practices for the handling and removal of resilient floor covering materials;
- (8) A schedule of license and permit fees;
- (9) Criteria for asbestos health and safety training courses;
- (10) Continuing education requirements for asbestos workers, supervisory asbestos workers, or contractors that are engaged in asbestos abatement;
- (11) Reciprocity and endorsement provisions;
- (12) Procedures to notify the public that an asbestos abatement project is about to commence;
- (13) Requirements for asbestos worker protection, including provisions that require a business entity to:

(A) Submit to the Mayor a copy of the federally required respiratory protection program;

(B) Ensure that workers complete a training course on asbestos abatement that includes, but is not limited to, recognition of asbestos health hazards to the public, and federal and District asbestos requirements;

(C) Certify to the Mayor that the business entity provides workers with protective clothing and equipment; and

(14) Requirements that provide protection of occupants of a building affected by an asbestos abatement project, including but not limited to, provisions that require:

(A) Certification that the level of asbestos fibers in affected units after an asbestos project is not more than .01 fibers per cubic centimeter;

(B) Certification by the business entity and District inspectors that the techniques used during the asbestos abatement project are safe and that an affected unit is safe for rehabilitation; and

(C) Procedures for the notification and education of occupants not less than 30 days prior to the commencement of an asbestos abatement project of the health or safety reasons that necessitate the asbestos abatement project and the procedures, including alternate accommodations and protection of belongings, that will be used to protect the health and safety of occupants of affected units.

(May 1, 1990, D.C. Law 8-116, § 14, 37 DCR 1641; Oct. 15, 1993, D.C. Law 10-37, § 2(b), 40 DCR 5817; May 16, 1995, D.C. Law 10-255, § 9, 41 DCR 5193.)

**Prior Codifications.** — 1981 Ed., § 6-991.13.

**Legislative history of Law 8-116.** — For legislative history of D.C. Law 8-116, see Historical and Statutory Notes following § 8-111.01.

**Legislative history of Law 10-37.** — For legislative history of D.C. Law 10-37, see Historical and Statutory Notes following § 8-111.04.

**Legislative history of Law 10-255.** — Law 10-255, the “Technical Amendments Act of 1994,” was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the

Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

**Legislative history of Law 10-255.** — D.C. Act 10-302 which affected this section became Law 10-255, effective May 16, 1995. The historical citation and notes relating to D.C. Law 10-255 have been set out herein to clarify the law number and effective date of that act.

**Editor's notes.** — District of Columbia Asbestos Licensing and Contract Act of 1990 Proposed Rulemaking Approval Resolution of 1997: Proposed Resolution 12-0112, the “District of Columbia Asbestos Licensing and Contract Act of 1990 Proposed Rulemaking Approval Resolution of 1997” was deemed approved, effective Jan. 25, 1997.

## § 8-111.14. Remedies cumulative.

The remedies provided for in this subchapter are cumulative of remedies already provided in law.

(May 1, 1990, D.C. Law 8-116, § 15, 37 DCR 1641.)

**Prior Codifications.** — 1981 Ed., § 6-991.14.

**Legislative history of Law 8-116.** — For legislative history of D.C. Law 8-116, see His-

torical and Statutory Notes following § 8-111.01.

*Subchapter VII. Underground Storage Tank Management.*

**§ 8-113.01. Definitions.**

For the purposes of this subchapter, the term:

(1) "Facility" means 1 or more underground storage tanks at a given location.

(2) "Guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for the underground storage tank facility.

(3) "Operator" means any person in control of, or having responsibility for, the daily operation of a facility.

(4) "Owner" means:

(A) In the case of an underground storage tank in use on or after November 8, 1984, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances; or

(B) In the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned a tank immediately before discontinuation of its use.

(5) "Person" means any individual, partnership, corporation (including a government corporation), trust, firm, joint stock company, association, consortium, joint venture, commercial entity, state, municipality, commission, political subdivision of a state, the District of Columbia ("District") government, the United States government, a foreign government, or any interstate body.

(6) "Petroleum" means petroleum, including crude oil or any fraction of crude oil, that is liquid at standard conditions of temperature and pressure of 60 degrees Fahrenheit and 14.7 pounds per square inch absolute.

(7) "Regulated substance" means:

(A) Any substance defined in § 101(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, approved December 11, 1980 (94 Stat. 2767; 42 U.S.C. § 9601(14)). The term "regulated substance" shall not include any substance regulated as a hazardous waste under subtitle C of title II of the Solid Waste Disposal Act, approved October 21, 1976 (90 Stat. 2806; 42 U.S.C. § 6921 et seq.);

(B) Petroleum; or

(C) Any other substance designated by the Mayor in accordance with rules issued pursuant to § 8-113.12.

(8) "Release" means any spill, leak, emission, discharge, escape, leach, or disposal from an underground storage tank.

(9)(A) "Responsible party" means:

(i) An owner or operator as defined in this section;

(ii) A person who caused or contributed to a release from an underground storage tank system;

(iii) A person who caused a release as a result of transfer of a regulated substance to or from an underground storage tank system;



(iv) A person found to be negligent, including any person who previously owned or operated an underground storage tank or facility, or who arranged for or agreed to the placement of an underground storage tank system by agreement or otherwise; or

(v) The owner of real property where an underground storage tank is or was located or where contamination from an underground storage tank is discovered if the owner or operator of the tank as defined in paragraphs 3 and 4 cannot be located or is insolvent, or, if the real property owner refuses without good cause to permit the owner or operator of the tank access to the property to investigate or remediate the site.

(B) If the owner and operator of a petroleum underground storage tank are separate persons, only the owner shall be required to demonstrate financial responsibility. Both the owner and operator shall be liable in the event of noncompliance with the requirements of 40 C.F.R. 280.90 et seq.

(10) "Underground storage tank" means 1 or any combination of tanks, including underground pipes that connect tanks, that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10% or more beneath the surface of the ground. "Underground storage tank" does not mean a tank that is exempted in accordance with rules issued pursuant to § 8-113.12.

(Mar. 8, 1991, D.C. Law 8-242, § 2, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(a), 39 DCR 5690.)

**Prior Codifications.** — 1981 Ed., § 6-995.1.

**Legislative history of Law 8-242.** — Law 8-242, the "District of Columbia Underground Storage Tank Management Act of 1990," was introduced in Council and assigned Bill No. 8-382, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-325 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-159.** — Law 9-159, the "District of Columbia Underground Storage Tank Management Act of 1990 Amendment Act of 1992," was introduced in Council

and assigned Bill No. 9-286, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 2, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 21, 1992, it was assigned Act No. 9-253 and transmitted to both Houses of Congress for its review. D.C. Law 9-159 became effective on September 29, 1992.

**Delegation of Authority.** — Delegation of authority under D.C. Law 8-242, the "D.C. Underground Storage Tank Management Act of 1990", see Mayor's Order 91-160, October 9, 1991.

Delegation of authority pursuant to D.C. Law 8-242, the "District of Columbia Underground Storage Tank Management Act of 1990", see Mayor's Order 98-58, April 17, 1998 (45 DCR 2871).

## CASE NOTES

### In general.

Prior occupants' alleged violations of District of Columbia Underground Storage Tank Management Act did not constitute negligence per se so as to support purchaser's claim for money damages, in light of purpose of Act to protect entire population from contaminated drinking

water rather than to secure rights to money damages for particular class. D.C. Code 1981, §§ 6-995.1 to 6-995.11; Restatement (Second) of Torts § 288(b, f). 325-343 E. 325-343 E. 56th St. Corp. v. Mobil Oil Corp., 906 F. Supp. 669, 1995 U.S. Dist. LEXIS 16895 (1995).

§ 8-113.02. Notification.

(a) Within 120 days after March 8, 1991, the owner of an underground storage tank shall notify the Mayor of the existence of any tank and specify the age, size, type, location, and use of the tank and any other information required by the Mayor.

(b) Notice shall not be required if the owner of an underground storage tank has:

(1) Taken the tank out of operation on or before January 1, 1974; or

(2) Previously filed a federal underground storage tank notification form with the Mayor.

(c) Any owner who brings into use an underground storage tank after March 8, 1991, shall notify the Mayor within 30 days of the existence of the tank as provided in subsection (a) of this section.

(d) Any owner of tanks located at different facilities shall file a separate notification form for each facility.

(e) An owner shall submit notice to the Mayor 30 days prior to a permanent removal from service or a change in the reported use, contents, or ownership of an underground storage tank.

(f) Beginning 30 days after the Mayor issues rules pursuant to § 8-113.12 regarding performance standards for new underground storage tanks, any person who deposits regulated substances into an underground storage tank or sells or leases an underground storage tank shall notify the owner of the tank of the notification requirement pursuant to this section.

(g) Beginning 30 days after September 29, 1992, any person who sells real property in the District of Columbia upon which underground storage tanks are located, or from which underground storage tanks have been removed during the seller's ownership, shall inform each prospective buyer in writing, prior to entering into a contract for sale, of the existence or removal of any tanks of which the seller has knowledge.

(Mar. 8, 1991, D.C. Law 8-242, § 3, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(b), 39 DCR 5690.)

**Section references.** — This section is referenced in § 8-113.09.

**Prior Codifications.** — 1981 Ed., § 6-995.2.

**Legislative history of Law 8-242.** — For legislative history of D.C. Law 8-242, see His-

torical and Statutory Notes following § 8-113.01.

**Legislative history of Law 9-159.** — For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

§ 8-113.03. Release notification requirements.

(a) Any responsible party or any authorized agent of a responsible party; any person who tests, installs, or removes tanks; any person who engages in site investigation, assessment, remediation, or geotechnical exploration; or any public utility company or authorized agent of a public utility company who knows, or has reason to know, of a release from an underground storage tank shall notify the Mayor of the release.

(b) The notification shall consist of, if known, the name of the owner,

operator, and any other responsible party, as well as the location, date, time, volume, and substance of the release. The notification shall include, if known, any immediate and ongoing action taken to mitigate the release, any subsequent hazardous conditions caused by the release, and an evaluation of any potential environmental hazard evident by the condition or disposition of the tank.

(Mar. 8, 1991, D.C. Law 8-242, § 4, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(c), 39 DCR 5690.)

**Prior Codifications.** — 1981 Ed., § 6-995.3.

**Legislative history of Law 8-242.** — For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

**Legislative history of Law 9-159.** — For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

### § 8-113.04. Interim prohibition for installation.

From March 8, 1991, until the effective date of the rules issued pursuant to § 8-113.12 regarding performance standards for new underground storage tanks, no person may install an underground storage tank to store a regulated substance unless the tank, whether of single or double wall construction, complies with the District of Columbia Fire Prevention Code and the new tank performance standards set forth in 40 C.F.R. part 280.

(Mar. 8, 1991, D.C. Law 8-242, § 5, 38 DCR 344.)

**Section references.** — This section is referenced in § 8-113.09.

**Prior Codifications.** — 1981 Ed., § 6-995.4.

**Legislative history of Law 8-242.** — For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

### § 8-113.05. Underground Storage Tank Trust Fund. [Repealed].

Repealed.

(Mar. 8, 1991, D.C. Law 8-242, § 6, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(d), 39 DCR 5690; Sept. 14, 2011, D.C. Law 19-21, § 9083, 58 DCR 6226.)

**Prior Codifications.** — 1981 Ed., § 6-995.5.

**Legislative history of Law 8-242.** — For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

**Legislative history of Law 9-159.** — For

legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 8-102.03.

### § 8-113.06. Certification, registration, and licensing.

(a) The Mayor may require the licensing of any business and the certification of any individual who installs, removes, or tests underground storage



tanks. The Mayor may, by rules issued in accordance with § 8-113.12, establish prerequisites for licensing and certification including minimum qualifications, proof of financial responsibility, application fees, and procedures.

(b) Any owner of an underground storage tank that contains a regulated substance shall register the tank with the Mayor on an annual basis pursuant to the rules issued and shall pay the required fee. A copy of the registration certificate shall be kept conspicuously displayed and available for inspection at any facility where the underground storage tank is located.

(c) The annual registration fee shall be:

(1) \$500 for an initial registration and \$200 for a renewal registration for a tank over 10,000 gallons; and

(2) \$200 for an initial registration and \$100 for a renewal registration for a tank of 10,000 gallons or under.

(d) The Mayor may adjust fees in accordance with rules issued pursuant to § 8-113.12 beginning 2 years after March 8, 1991.

(Mar. 8, 1991, D.C. Law 8-242, § 7, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(e), 39 DCR 5690.)

**Section references.** — This section is referenced in § 8-113.07.

**Prior Codifications.** — 1981 Ed., § 6-995.6.

**Legislative history of Law 8-242.** — For legislative history of D.C. Law 8-242, see His-

torical and Statutory Notes following § 8-113.01.

**Legislative history of Law 9-159.** — For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

## § 8-113.07. Denial, suspension, or revocation.

The Mayor may suspend, revoke, or refuse to issue, renew, or restore a license or certificate issued under § 8-113.06 to protect the public health, safety, or welfare if the Mayor finds that the applicant or holder has:

(1) Failed to meet and maintain the standards established by this subchapter or rules issued pursuant to this subchapter;

(2) Submitted a false or fraudulent record, invoice, or report;

(3) Engaged in fraud or misrepresentation in the application for licensure or certification;

(4) Had a history of repeated violations; or

(5) Had his license or certification denied, revoked, or suspended in another state or jurisdiction.

(Mar. 8, 1991, D.C. Law 8-242, § 8, 38 DCR 344.)

**Prior Codifications.** — 1981 Ed., § 6-995.7.

**Legislative history of Law 8-242.** — For

legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

## § 8-113.08. Right of entry; inspections; analyses; corrective action.

(a) For the purpose of enforcing this subchapter or any rule issued pursuant

to this subchapter, the Mayor or his or her designated representative may, at any reasonable time, upon the presentation of appropriate credentials to the owner, operator, or agent in charge:

(1) Enter without delay any place where an underground storage tank is or has been located or where a release is suspected;

(2) Inspect and obtain samples of any regulated substance contained in the tank;

(3) Inspect and copy any record, report, information, or test result required to be maintained pursuant to this subchapter, rules issued pursuant to this subchapter, or relevant to the operation of any underground storage tank; and

(4) Conduct monitoring or testing of any tank, associated equipment, contents, surrounding soils, air, surface water, or groundwater.

(b) If the Mayor is denied access to any place where an underground storage tank is or has been located, the Mayor may apply to a court of competent jurisdiction for a search warrant.

(c) If a designated representative or employee of the Mayor obtains any sample prior to leaving the premises, he or she shall give the owner, operator, or agent in charge, a receipt that describes the sample obtained, and if requested, a portion of the sample equal in volume or weight to the portion obtained. If any analysis is made of a sample, a copy of the results of the analysis shall be furnished promptly to the owner, operator, or agent in charge.

(d) The Mayor may require the responsible party to provide any information or record with respect to any underground storage tank or system if the information or record is necessary to determine compliance with the rules or to conduct monitoring or testing of the tanks, associated equipment, contents, surrounding soils, air, or surface water or groundwater. The Mayor may require the responsible party to take any necessary corrective action.

(d-1) The Mayor, or his or her designated agent, may enter upon property to perform, or cause to be performed, corrective actions necessary to protect human health or the environment under the circumstances set forth in § 8-113.05(d) [repealed]. The Mayor shall give prior notice of the action to the owner or operator and the real property owner by first attempting personal service or service by registered mail, and, if unsuccessful, by providing notice by publication and conspicuous posting on the property.

(e) The Mayor may take summary corrective action if a release of a regulated substance from an underground storage tank creates an imminent threat to human health or the environment. The Mayor shall provide an opportunity for a hearing with respect to the summary action without prejudice to the authority of the Mayor to take and complete the action. The Mayor shall give prior notice of the action to the owner, operator, or agent in charge and the real property owner, by personal service or by registered mail, and by conspicuous posting on the property, unless the emergency nature of the situation makes prior notice by personal service or registered mail impractical. If the owner, operator, or agent in charge cannot be located, notice shall be provided by conspicuous posting on the property.

(Mar. 8, 1991, D.C. Law 8-242, § 9, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(f), 39 DCR 5690.)

**Prior Codifications.** — 1981 Ed., § 6-995.8.

**Legislative history of Law 8-242.** — For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

**Legislative history of Law 9-159.** — For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

## § 8-113.09. Enforcement; penalties.

(a) If the Mayor believes or has reason to believe that there is a violation or a threatened violation of this subchapter or the rules issued pursuant to this subchapter, the Mayor may give written notice of the violation or threatened violation to the owner, operator, or any other responsible party deemed appropriate by the Mayor, and may require the person to take the corrective measures the Mayor considers reasonable and necessary.

(1) Repealed.

(b) If a person fails to comply with a notice of violation issued pursuant to subsection (a) of this section within the time stated in the notice, the Mayor may issue a proposed compliance order, or a proposed cease and desist order, or may institute a court action for injunctive relief, damages, civil penalties, or recovery of any corrective action costs, necessary to promptly and effectively terminate the violation or threatened violation and protect life, property, or the environment.

(1) A proposed compliance order or proposed cease and desist order issued under this section shall include a statement of the nature of the violation, afford the right to a hearing, and allow a reasonable time for compliance with the order, consistent with the likelihood of harm and the need to protect health, safety, life, property, and the environment, and shall state any penalties to be assessed for failure to comply with the order.

(2) A proposed order issued under this section shall become effective and final unless the person or persons named therein request a hearing no later than 15 days after the order is served. If requested, the public hearing shall be conducted in compliance with the requirements of § 2-509.

(c)(1) The Mayor may issue an immediate compliance order, or an immediate cease and desist order, or may seek a temporary restraining order, without first issuing a notice of violation or threatened violation pursuant to subsection (a) of this section and without first providing reasonable notice and an opportunity to be heard pursuant to subsection (b) of this section, in order to require a person to correct a situation which immediately threatens public health or the environment or to restrain any person from engaging in any unauthorized activity that immediately endangers or causes damage to public health or the environment.

(2) A compliance order or cease and desist order issued under this section shall be effective upon issuance and shall become final unless the person named in the order requests a public hearing within 72 hours after the order is served. If requested, the Mayor shall hold a hearing within 15 days from the



date the hearing request is received and shall issue a decision no later than 15 days after the hearing. The hearing shall be conducted in compliance with § 2-509.

(d) Any person who fails to comply with a final compliance order or a final cease and desist order issued pursuant to this section shall be liable for a civil penalty of not more than \$25,000 for each day of noncompliance.

(e) Any person who knowingly fails to notify or submits false information pursuant to § 8-113.02(a) through (f) shall be subject to a civil penalty not to exceed \$10,000 for each violation.

(f) Any person who fails to comply with any applicable rules issued pursuant to § 8-113.12 or with the requirements of § 8-113.04 shall be subject to a civil penalty not to exceed \$10,000 for each tank for each day of violation.

(g) A civil fine, penalty, or fee may be imposed as an alternative sanction for any infraction of the provisions of this subchapter or the rules issued in accordance with this subchapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction shall be pursuant to Chapter 18 of Title 2.

(h) Any action under this section shall be in the Superior Court of the District of Columbia in the name of the District of Columbia, and shall be instituted by the Office of the Corporation Counsel.

(i) In any action brought for civil penalties, damage, or equitable relief under this subchapter, the statute of limitations shall not begin to toll until the injury is discovered or, with reasonable diligence, should have been discovered.

(j) The Mayor may cause to be entered any final order requiring a party to take corrective action or to pay fines, penalties, or costs as a judgment against the party in the Superior Court of the District of Columbia. The Mayor may enforce the judgment in the same manner as any other civil judgment may be enforced under District law.

(k) Any person adversely affected or aggrieved by a final order issued pursuant to this section may appeal to the District of Columbia Court of Appeals.

(Mar. 8, 1991, D.C. Law 8-242, § 10, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(g), 39 DCR 5690; Apr. 18, 1996, D.C. Law 11-110, § 12, 43 DCR 530; Apr. 20, 1999, D.C. Law 12-264, § 17, 46 DCR 2118.)

**Prior Codifications.** — 1981 Ed., § 6-995.9.

**Legislative history of Law 8-242.** — For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

**Legislative history of Law 9-159.** — For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

**Legislative history of Law 11-110.** — Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed

by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

**Legislative history of Law 12-264.** — Law 12-264, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

**Delegation of Authority.** — Delegation of Authority under the Underground Storage

Tank Management Act of 1990, see Mayor's Order 2007-112, May 3, 2007 (54 DCR 9041).

**§ 8-113.10. Summary action.**

(a) If the Mayor determines during or after an investigation that the conduct of any business or individual who installs, removes, or tests an underground storage tank presents an imminent danger to the health or safety of the residents of the District, the Mayor may summarily suspend or restrict, without a hearing, the license of the business or certificate of the individual.

(b) At the time of the summary suspension or restriction, the Mayor shall provide the licensee or certificate holder with a written notice stating the action that is being taken, the basis for the action, and the right of the licensee or certificate holder to request a hearing.

(c) A licensee or certificate holder shall have the right to request a hearing within 72 hours after service of notice of the summary suspension or restriction of the license or certificate. The Mayor shall hold a hearing within 15 days of receipt of a timely request, and shall issue a decision within 15 days after the hearing.

(d) Any decision and order adverse to a licensee or certified holder shall be in writing and accompanied by findings of fact and conclusions of law. The Mayor shall provide a copy of the decision and order and findings of fact and conclusions of law to each party or his or her attorney of record.

(e) Any licensee or certificate holder aggrieved by a decision and order may file an appeal in accordance with § 2-510.

(Mar. 8, 1991, D.C. Law 8-242, § 11, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(h), 39 DCR 5690.)

**Prior Codifications.** — 1981 Ed., § 6-995.10.

**Legislative history of Law 8-242.** — For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

**Legislative history of Law 9-159.** — For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

**§ 8-113.11. Citizen's right of action.**

(a) Any person aggrieved by a violation of any requirement of this subchapter or rule issued pursuant to this subchapter may commence a civil action on his or her own behalf against any person who is alleged to be in violation.

(b) The Court shall have jurisdiction in any action brought pursuant to subsection (a) of this section to enforce the requirement or to order any action necessary to correct the violation, and to impose any civil penalty provided for the violation.

(c) No action may be commenced under subsection (a) of this section until 30 days after the plaintiff has given notice of the violation to the Office of Corporation Counsel for the District of Columbia and to the alleged violator.

(d) No action may be commenced under subsection (a) of this section if the Mayor has commenced and is diligently prosecuting an action to obtain

compliance with the requirements of this subchapter or rules issued pursuant to this subchapter.

(e) The Court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation, including reasonable attorney and expert witness fees, to the prevailing or substantially prevailing party if the court determines an award is appropriate.

(f) An owner or operator who enters on the property of another person in order to investigate or remediate a leaking underground storage tank site shall be liable for any damages to person or property which result from the action of the owner or operator or the agents of the owner or operator.

(Mar. 8, 1991, D.C. Law 8-242, § 12, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(i), 39 DCR 5690.)

**Prior Codifications.** — 1981 Ed., § 6-995.11.

**Legislative history of Law 8-242.** — For legislative history of D.C. Law 8-242, see Historical and Statutory Notes following § 8-113.01.

**Legislative history of Law 9-159.** — For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

#### CASE NOTES

##### **In general.**

Citizen suit provision of District of Columbia Underground Storage Tank Management Act did not expressly or impliedly provide private right of action to allow purchaser to recover money damages from prior occupants of land for purchaser's costs of remediation of petroleum contamination, absent any indication of legislative intent to allow private damages claim, absent indication that Act was enacted for especial benefit of purchasers of contaminated property, and in light of nature of underlying enforcement scheme of allowing citizens to act as private attorney generals. D.C. Code 1981, § 6-995.11. 325-343 E. 325-343 E. 56th

St. Corp. v. Mobil Oil Corp., 906 F. Supp. 669, 1995 U.S. Dist. LEXIS 16895 (1995).

Prior occupants' alleged violations of District of Columbia Underground Storage Tank Management Act did not constitute negligence per se so as to support purchaser's claim for money damages, in light of purpose of Act to protect entire population from contaminated drinking water rather than to secure rights to money damages for particular class. D.C. Code 1981, §§ 6-995.1 to 6-995.11; Restatement (Second) of Torts § 288(b, f). 325-343 E. 325-343 E. 56th St. Corp. v. Mobil Oil Corp., 906 F. Supp. 669, 1995 U.S. Dist. LEXIS 16895 (1995).

## § 8-113.12. Rules.

(a) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue and may revise, as appropriate, rules necessary to carry out the purposes and implement the provisions of this subchapter, including rules regarding requirements for:

(1) The maintenance of leak detection, prevention, inventory control, and tank testing systems;

(2) The maintenance of records of any monitoring or leak detection system or an inventory control or tank testing system;

(3) The reporting of releases and any corrective action taken;

(4) The abandonment in place, closure, or removal of underground storage tanks to prevent future releases of regulated substances into the environment;

(5) The maintenance of evidence of financial responsibility in order to take corrective action and compensate any 3rd party for bodily injury or



property damage which shall conform to the federal financial responsibility requirements issued pursuant to section 9004 of the Solid Waste Disposal Act, approved November 8, 1984 (98 Stat. 3282; 42 U.S.C. § 6991c);

(6) The establishment of standards of performance for new underground storage tanks;

(7) The taking of corrective action in response to a release from an underground storage tank that meets District and federal cleanup objectives;

(8) Public participation in the implementation and enforcement of this subchapter;

(9) Standards and fees for the registration, installation, and abandonment of tanks; and

(10) Tanks that are exempt from regulation.

(b) Until the Mayor, by rule, determines which tanks shall be exempt from regulation, the exemptions set forth in section 9001(1) of the Solid Waste Disposal Act (42 U.S.C. § 6991(1)) shall be applicable.

(Mar. 8, 1991, D.C. Law 8-242, § 13, 38 DCR 344; Sept. 29, 1992, D.C. Law 9-159, § 2(j), 39 DCR 5690.)

**Section references.** — This section is referenced in § 8-113.01, § 8-113.02, § 8-113.04, § 8-113.06, and § 8-113.09.

**Prior Codifications.** — 1981 Ed., § 6-995.12.

**Legislative history of Law 8-242.** — For legislative history of D.C. Law 8-242, see His-

torical and Statutory Notes following § 8-113.01.

**Legislative history of Law 9-159.** — For legislative history of D.C. Law 9-159, see Historical and Statutory Notes following § 8-113.01.

### *Subchapter VIII. Lead-Based Paint Abatement and Control.*

## **§ 8-115.01. Definitions. [Repealed].**

Repealed.

(Apr. 9, 1997, D.C. Law 11-221, § 2, 43 DCR 6854; Apr. 20, 1999, D.C. Law 12-264, § 18, 46 DCR 2118; Apr. 12, 2005, D.C. Law 15-347, § 2(a), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Prior Codifications.** — 1981 Ed., § 6-997.1.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(a) of Lead-Based Paint Abatement and Control Temporary Amendment Act of 2002 (D.C. Law 14-204, October 17, 2002, law notification 49 DCR 10460).

For temporary (225 day) amendment of section, see § 2(a) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2003 (D.C. Law 15-28, September 23, 2003, law notification 50 DCR 8351).

For temporary (225 day) amendment of section, see § 2(a) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2004 (D.C. Law 15-180, September 8, 2004, law notification 51 DCR 9222).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2002 (D.C. Act 14-397, June 25, 2002, 49 DCR 6511).

For temporary (90 day) amendment of section, see § 2(a) of Lead-Based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-478, October 3, 2002, 49 DCR 9574).

For temporary (90 day) amendment of section, see § 2(a) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2003 (D.C. Act 15-89, May 19, 2003, 50 DCR 4334).

For temporary (90 day) amendment of section, see § 2(a) of Lead-based Paint Abatement and Control Congressional Review Emergency

Amendment Act of 2003 (D.C. Act 15-125, July 29, 2003, 50 DCR 6641).

For temporary (90 day) amendment of section, see § 2(a) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2004 (D.C. Act 15-411, April 21, 2004, 51 DCR 4677).

For temporary (90 day) amendment of section, see § 2(a) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-468, July 19, 2004, 51 DCR 7587).

**Legislative history of Law 11-221.** — Law 11-221, the “Lead-Based Paint Abatement and Control Act of 1996,” was introduced in Council and assigned Bill No. 11-640, which was referred to the Committee on Housing and Urban Affairs. The Bill was adopted on first and second readings on October 1, 1996, and November 17, 1996, respectively. Signed by the Mayor on November 20, 1996, it was assigned Act No. 11-438 and transmitted to both Houses of Congress for its review. D.C. Law 11-221 became effective April 9, 1997.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 8-113.09.

**Legislative history of Law 15-347.** — Law 15-347, the “Lead-Bases Paint Abatement and

Control Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-769 which was referred to the Committee Human Services. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 19, 2005, it was assigned Act No. 15-769 and transmitted to both Houses of Congress for its review. D.C. Law 15-347 became effective on April 12, 2005.

**Legislative history of Law 17-381.** — Law 17-381, the “Lead-Hazard Prevention and Elimination Act of 2008”, was introduced in Council and assigned Bill No. 17-936 which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 29, 2009, it was assigned Act No. 17-722 and transmitted to both Houses of Congress for its review. D.C. Law 17-381 became effective on March 31, 2009.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 11-221, “Lead-Based Paint Abatement and Control Act of 1996”, see Mayor’s Order 98-54, April 15, 1998 (45 DCR 2702); Mayor’s Order 98-124, August 7, 1998 (45 DCR 6386).

## § 8-115.02. Establishment of lead-based paint abatement and control program [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-221, § 3, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(b), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Prior Codifications.** — 1981 Ed., § 6-997.2.

**Emergency legislation.** — For temporary amendment of section, see § 101 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

**Legislative history of Law 11-221.** — For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

**Legislative history of Law 15-347.** — For Law 15-347, see notes following § 8-115.01.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-115.01.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 11-221 the “Lead-Based Paint Abatement and Control Act of 1996”, see Mayor’s Order 97-118, June 25, 1997 (44 DCR 4137).

## § 8-115.03. Prohibition on lead-based paint activities. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-221, § 4, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(c), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Prior Codifications.** — 1981 Ed., § 6-997.3.

**Legislative history of Law 11-221.** — For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

**Legislative history of Law 15-347.** — For Law 15-347, see notes following § 8-115.01.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-115.01.

## § 8-115.04. Exemptions from provisions of this subchapter. [Repealed].

Repealed.

(Apr. 9 1997, D.C. Law 11-221, § 5, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(d), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Prior Codifications.** — 1981 Ed., § 6-997.4.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(b) of Lead-Based Paint Abatement and Control Temporary Amendment Act of 2002 (D.C. Law 14-204, October 17, 2002, law notification 49 DCR 10460).

For temporary (225 day) amendment of section, see § 2(b) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2003 (D.C. Law 15-28, September 23, 2003, law notification 50 DCR 8351).

For temporary (225 day) amendment of section, see § 2(b) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2004 (D.C. Law 15-180, September 8, 2004, law notification 51 DCR 9222).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(b) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2002 (D.C. Act 14-397, June 25, 2002, 49 DCR 6511).

For temporary (90 day) amendment of section, see § 2(b) of Lead-Based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-478, October 3, 2002, 49 DCR 9574).

For temporary (90 day) amendment of section, see § 2(b) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2003 (D.C. Act 15-89, May 19, 2003, 50 DCR 4334).

For temporary (90 day) amendment of section, see § 2(b) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-125, July 29, 2003, 50 DCR 6641).

For temporary (90 day) amendment of section, see § 2(b) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2004 (D.C. Act 15-411, April 21, 2004, 51 DCR 4677).

For temporary (90 day) amendment of section, see § 2(b) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-468, July 19, 2004, 51 DCR 7587).

**Legislative history of Law 11-221.** — For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

**Legislative history of Law 15-347.** — For Law 15-347, see notes following § 8-115.01.

## § 8-115.05. Certification requirements for individuals and business entities to conduct lead-based paint abatement; risk assessment and inspection of lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil; or planning, project designing, and supervision of lead-based paint activities. [Repealed].

Repealed.

(Apr. 9 1997, D.C. Law 11-221, § 6, 43 DCR 6854; Apr. 12, 2005, D.C. Law



15-347, § 2(e), 52 DCR 2627; Mar. 2, 2007, D.C. Law 16-191, § 36(a), 53 DCR 6794; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Prior Codifications.** — 1981 Ed., § 6-997.5.

**Legislative history of Law 11-221.** — For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

**Legislative history of Law 15-347.** — For Law 15-347, see notes following § 8-115.01.

**Legislative history of Law 16-191.** — Law 16-191, the “Technical Amendments Act of 2006”, was introduced in Council and assigned

Bill No. 16-760, which was referred to the Committee of the whole. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 31, 2006, it was assigned Act No. 16-475 and transmitted to both Houses of Congress for its review. D.C. Law 16-191 became effective on March 2, 2007.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-115.01.

### **§ 8-115.05a. Required training of employees of a business entity performing interim controls and certain lead-based paint activities. [Repealed].**

Repealed.

(Apr. 9, 1997, D.C. Law 11-221, § 6a, as added Apr. 12, 2005, D.C. Law 15-347, § 2(f), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Legislative history of Law 15-347.** — For Law 15-347, see notes following § 8-115.01.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-115.01.

### **§ 8-115.06. Accreditation of training providers. [Repealed].**

Repealed.

(Apr. 9, 1997, D.C. Law 11-221, § 7, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(g), 52 DCR 2627; Mar. 2, 2007, D.C. Law 16-191, § 36(b), 53 DCR 6794; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Prior Codifications.** — 1981 Ed., § 6-997.6.

**Legislative history of Law 11-221.** — For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

**Legislative history of Law 15-347.** — For Law 15-347, see notes following § 8-115.01.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 8-115.05.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-115.01.

### **§ 8-115.07. Permit requirements.**

(a) Prior to conducting a lead-based paint abatement as defined in § 8-115.01(1)(A) [repealed], business entities and individuals shall obtain a permit from the Mayor. To obtain a permit, an application shall be submitted to the Mayor for approval with the appropriate fee. The application shall contain the following information:

- (1) The location of the lead-based paint abatement project;
- (2) The starting and completion dates of the lead-based paint abatement;
- (3) The approximate amount of lead-based paint or lead-based paint containing materials to be abated;

- (4) The method of abatement to be employed;
- (5) The provisions for medical surveillance and worker protection;
- (6) The manner in which the waste containing lead will be disposed and location of the disposal site;
- (7) A description of the areas immediately adjacent to the abatement site;
- (8) Proof of certification, pursuant to § 8-115.05, of the business entity and of all individuals who will be engaging in the lead-based paint abatement; and

(9) Any other information required by the Mayor through the formal rulemaking and regulatory process of § 8-115.14.

(b) A permit fee determined by the Mayor shall be assessed for each lead-based paint abatement project. The Mayor may by rulemaking revise permit fees as necessary to recover the costs of administering and enforcing this subchapter. Permits shall be valid for a period not to exceed one year from the date of issuance. Each permit shall be limited to one site and shall not be transferable to another site.

(c) A single application and permit shall be sufficient for an entire abatement project. Separate permits for each unit or building are not required as long as the units and buildings are located on the same real property.

(Apr. 9, 1997, D.C. Law 11-221, § 8, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(h), 52 DCR 2627.)

**Prior Codifications.** — 1981 Ed., § 6-997.7.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(c) of Lead-Based Paint Abatement and Control Temporary Amendment Act of 2002 (D.C. Law 14-204, October 17, 2002, law notification 49 DCR 10460).

For temporary (225 day) amendment of section, see § 2(c) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2003 (D.C. Law 15-28, September 23, 2003, law notification 50 DCR 8351).

For temporary (225 day) amendment of section, see § 2(c) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2004 (D.C. Law 15-180, September 8, 2004, law notification 51 DCR 9222).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(c) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2002 (D.C. Act 14-397, June 25, 2002, 49 DCR 6511).

For temporary (90 day) amendment of section, see § 2(c) of Lead-Based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-478, October 3, 2002, 49 DCR 9574).

For temporary (90 day) amendment of section, see § 2(c) of Lead-Based Paint Abatement

and Control Emergency Amendment Act of 2003 (D.C. Act 15-89, May 19, 2003, 50 DCR 4334).

For temporary (90 day) amendment of section, see § 2(c) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-125, July 29, 2003, 50 DCR 6641).

For temporary (90 day) amendment of section, see § 2(c) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2004 (D.C. Act 15-411, April 21, 2004, 51 DCR 4677).

For temporary (90 day) amendment of section, see § 2(c) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-468, July 19, 2004, 51 DCR 7587).

**Legislative history of Law 11-221.** — For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

**Legislative history of Law 15-347.** — For Law 15-347, see notes following § 8-115.01.

**Editor's notes.** — Section 21(b) of D.C. Law 17-381 provided that section 8 shall be deemed repealed upon issuance of rules by the Mayor under this act regarding abatement permit requirements.

### § 8-115.07a. Clearance report required; Record keeping requirements. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-221, § 8a, as added Apr. 12, 2005, D.C. Law 15-347, § 2(i), 52 DCR 2627, Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Legislative history of Law 15-347.** — For Law 15-347, see notes following § 8-115.01.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-115.01.

### § 8-115.08. Record keeping requirements. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-221, § 9, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(j), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Prior Codifications.** — 1981 Ed., § 6-997.8.

**Legislative history of Law 15-347.** — For Law 15-347, see notes following § 8-115.01.

**Legislative history of Law 11-221.** — For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-115.01.

### § 8-115.09. Inspections by the Mayor. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-221, § 10, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(k), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Prior Codifications.** — 1981 Ed., § 6-997.9.

**Legislative history of Law 15-347.** — For Law 15-347, see notes following § 8-115.01.

**Legislative history of Law 11-221.** — For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-115.01.

### § 8-115.10. Denial, suspension, or revocation. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-221, § 11, 43 DCR 6854; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Prior Codifications.** — 1981 Ed., § 6-997.10.

**Legislative history of Law 15-347.** — For Law 15-347, see notes following § 8-115.01.

**Legislative history of Law 11-221.** — For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-115.01.

### § 8-115.11. Hearings. [Repealed].

Repealed.



(Apr. 9, 1997, D.C. Law 11-221, § 12, 43 DCR 6854; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Prior Codifications.** — 1981 Ed., § 6-997.11.

**Legislative history of Law 11-221.** — For legislative history of D.C. Law 11-221, see His-

torical and Statutory Notes following § 8-115.01.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-115.01.

## § 8-115.12. Criminal penalties/fines. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-221, § 13, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(l), 52 DCR 2627; Mar. 2, 2007, D.C. Law 16-191, § 36(c), 53 DCR 6794; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Prior Codifications.** — 1981 Ed., § 6-997.12.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(d) of Lead-Based Paint Abatement and Control Temporary Amendment Act of 2002 (D.C. Law 14-204, October 17, 2002, law notification 49 DCR 10460).

For temporary (225 day) amendment of section, see § 2(d) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2003 (D.C. Law 15-28, September 23, 2003, law notification 50 DCR 8351).

For temporary (225 day) amendment of section, see § 2(d) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2004 (D.C. Law 15-180, September 8, 2004, law notification 51 DCR 9222).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2002 (D.C. Act 14-397, June 25, 2002, 49 DCR 6511).

For temporary (90 day) amendment of section, see § 2(d) of Lead-Based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-478, October 3, 2002, 49 DCR 9574).

For temporary (90 day) amendment of section, see § 2(d) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2003 (D.C. Act 15-89, May 19, 2003, 50 DCR 4334).

For temporary (90 day) amendment of section, see § 2(d) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-125, July 29, 2003, 50 DCR 6641).

For temporary (90 day) amendment of section, see § 2(d) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2004 (D.C. Act 15-411, April 21, 2004, 51 DCR 4677).

For temporary (90 day) amendment of section, see § 2(d) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-468, July 19, 2004, 51 DCR 7587).

**Legislative history of Law 11-221.** — For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

**Legislative history of Law 15-347.** — For Law 15-347, see notes following § 8-115.01.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 8-115.05.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-115.01.

**Editor's notes.** — Section 5 of D.C. Law 15-347 provided: "Sec. 5. Applicability. Section 2(l) and (m) shall apply upon publication in the District of Columbia Register by the Mayor of a list of civil infraction fines and a recommended schedule of fines or penalties for the Superior Court of the District of Columbia to consider."

## § 8-115.13. Civil penalties/fines; civil infractions. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-221, § 14, 43 DCR 6854; Apr. 12, 2005, D.C. Law 15-347, § 2(m), 52 DCR 2627; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Prior Codifications.** — 1981 Ed., § 6-997.13.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(e) of Lead-Based Paint Abatement and Control Temporary Amendment Act of 2002 (D.C. Law 14-204, October 17, 2002, law notification 49 DCR 10460).

For temporary (225 day) amendment of section, see § 2(e) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2003 (D.C. Law 15-28, September 23, 2003, law notification 50 DCR 8351).

For temporary (225 day) amendment of section, see § 2(e) of Lead Based Paint Abatement and Control Temporary Amendment Act of 2004 (D.C. Law 15-180, September 8, 2004, law notification 51 DCR 9222).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(e) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2002 (D.C. Act 14-397, June 25, 2002, 49 DCR 6511).

For temporary (90 day) amendment of section, see § 2(e) of Lead-Based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-478, October 3, 2002, 49 DCR 9574).

For temporary (90 day) amendment of section, see § 2(e) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2003 (D.C. Act 15-89, May 19, 2003, 50 DCR 4334).

For temporary (90 day) amendment of sec-

tion, see § 2(e) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-125, July 29, 2003, 50 DCR 6641).

For temporary (90 day) amendment of section, see § 2(e) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-125, July 29, 2003, 50 DCR 6641).

For temporary (90 day) amendment of section, see § 2(e) of Lead-Based Paint Abatement and Control Emergency Amendment Act of 2004 (D.C. Act 15-411, April 21, 2004, 51 DCR 4677).

For temporary (90 day) amendment of section, see § 2(e) of Lead-based Paint Abatement and Control Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-468, July 19, 2004, 51 DCR 7587).

**Legislative history of Law 11-221.** — For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

**Legislative history of Law 15-347.** — For Law 15-347, see notes following § 8-115.01.

**Editor's notes.** — Section 5 of D.C. Law 15-347 provided: "Sec. 5. Applicability. Section 2(l) and (m) shall apply upon publication in the District of Columbia Register by the Mayor of a list of civil infraction fines and a recommended schedule of fines or penalties for the Superior Court of the District of Columbia to consider."

For Law 17-381, see notes following § 8-115.01.

## § 8-115.14. Rulemaking. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-221, § 15, 43 DCR 6854; Mar. 31, 2009, D.C. Law 17-381, § 21(a), 56 DCR 1596.)

**Prior Codifications.** — 1981 Ed., § 6-997.14.

**Emergency legislation.** — For temporary (90 day) addition, see § 3 of the Multiple Dwelling Residence Water Lead Level Test Emergency Act of 2004 (D.C. Act 15-483, July 19, 2004, 51 DCR 7833).

For temporary (90 day) addition, see § 3 of Multiple Dwelling Residence Water Lead Level Test Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-560, October 26, 2004, 51 DCR 10382).

**Legislative history of Law 11-221.** — For legislative history of D.C. Law 11-221, see Historical and Statutory Notes following § 8-115.01.

**Legislative history of Law 15-206.** — Law 15-206, the "Multiple Dwelling Residence Water Lead Level Test Temporary Act of 2004", was introduced in Council and assigned Bill No. 15-907, and was retained by Council. The Bill was adopted on first and second readings on June 29, 2004, and July 13, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-488 and transmitted to both Houses of Congress for its review. D.C. Law 15-206 became effective on December 7, 2004.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-115.01.

CHAPTER 1A. DISTRICT DEPARTMENT OF THE ENVIRONMENT.

*Subchapter I. General*

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§ 8-151.01. Definitions.

For the purposes of this chapter, the term:

(1) "CapStat" means an accountability program that examines performance data to improve government services to make the District of Columbia government run more efficiently, using a methodical process for focusing the attention of government representatives on improving performance in priority issues that cross agency boundaries.

(2) "DDOE" means the District Department of the Environment.

(3) "Director" means the Director of the District Department of the Environment.

(4) "Environment" means the physical conditions and natural resources of the District, including the land, air, water, minerals, flora, and fauna in the District, and the waters adjacent to the District.

(5) "Environmental Management System" or "EMS" means an inter-agency data system to inventory, track, and report on progress towards performance standards and activities. The term "EMS" includes an adaptive management approach that incorporates planning, implementing, monitoring, evaluating, and adjusting the interagency data system.

(6) "Impervious area stormwater user fee" or "stormwater user fee" means a fee that attributes the cost of conveying stormwater run-off via a sewer from a given property, to the quantity of stormwater run-off generated from that same property, by use of impervious surface as a surrogate metric.

(7) "Impervious surface" means a surface area that either prevents or retards the entry of water into the ground as occurring under natural conditions, or that causes water to run off the surface in greater quantities or at an increased rate of flow, relative to the flow present under natural conditions.

(8) "Low Impact Development" or "LID" means stormwater management



practices that mimic site hydrology under natural conditions, by using design techniques in construction and development that store, infiltrate, evaporate, detain, or reuse and recycle runoff.

(9) “MS4” means the Municipal Separate Storm Sewer System serving approximately two-thirds of the District, and comprised of 2 independent piping systems: one system for sewage from homes and businesses, and one system for stormwater.

(10) “Natural conditions” means the state of the environment prior to anthropogenic intervention.

(11) “Primacy” means the grant or delegation of authority under certain federal environmental laws that allows states and the District to assume primary authority to enforce and implement the environmental laws and promulgate regulations pursuant to those laws.

(12) “SDWA” means the Safe Drinking Water Act, approved December 16, 1974 (88 Stat. 1660; 42 U.S.C. § 300f et seq.).

(13) “Sewer” shall have the same meaning as provided in § 34-2202.01(9).

(14) “Stormwater best management practice” means a structure used to reduce the volume or the pollutant content of a stormwater discharge.

(15) “Stormwater Permit” or “MS4 Permit” means NPDES No. DC0000221, issued to the District of Columbia by the Environmental Protection Agency.

(Feb. 15, 2006, D.C. Law 16-51, § 101, 52 DCR 10812; Mar. 25, 2009, D.C. Law 17-371, § 2(a), 56 DCR 1353; Sept. 26, 2012, D.C. Law 19-171, § 149(a), 59 DCR 6190.)

**Effect of amendments.** — D.C. Law 17-371 rewrote the section.

The 2012 amendment by D.C. Law 19-171 deleted “April 20, 2000” following “No. DC0000221, issued” in (15).

**Temporary Amendment of Section.** — Section 902 of D.C. Law 18-222 rewrote subsec. (e) to read as follows:

“(e) Monies shall not be disbursed from the Enterprise Fund for costs associated with:

“(1) Stormwater management activities carried out prior to April 20, 2000, including street sweeping, except to the extent those activities were enhanced, and their costs increased, to comply with the terms of the Stormwater Permit; or

“(2) Stormwater management activities otherwise required by law or regulation, unless specifically permitted by the Director.”.

Section 2002(b) of D.C. Law 18-222 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 902 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) amendment of section, see § 902 of Fiscal Year 2010 Balanced

Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

**Legislative history of Law 16-51.** — Law 16-51, the “District Department of the Environment Establishment Act of 2005”, was introduced in Council and assigned Bill No. 16-16 which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on July 6, 2005, and November 15, 2005, respectively. Signed by the Mayor on December 2, 2005, it was assigned Act No. 16-213 and transmitted to both Houses of Congress for its review. D.C. Law 16-51 became effective on February 15, 2006.

**Legislative history of Law 17-371.** — Law 17-371, the “Comprehensive Stormwater Management Enhancement Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-980 which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 23, 2009, it was assigned Act No. 17-706 and transmitted to both Houses of Congress for its review. D.C. Law 17-371 became effective on March 25, 2009.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr.

17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

## § 8-151.02. Purpose.

The purpose of this chapter is to establish a single executive agency to protect human health and the environment in accordance with District and federal law and regulation, improve the urban quality of life, streamline the administration of District environmental law and programs, including those relating to environmental health, to improve public notification of environmental issues, and to enable the District to seek primacy.

(Feb. 15, 2006, D.C. Law 16-51, § 102, 52 DCR 10812.)

**Legislative history of Law 16-51.** — For Law 16-51, see notes following § 8-151.01.

**Delegation of Authority.** — Delegation and Transfer of Authority pursuant to D.C. Law 16-51, the District Department of the Environment Establishment Act of 2005, see Mayor’s Order 2006-61, June 14, 2006 (53 DCR 7684).

Amendment of Mayor’s Order 2002-16, dated June 14, 2006, Delegation and Transfer of Au-

thority Pursuant to D.C. Law 16-51, the District Department of the Environment Establishment Act of 2005, see Mayor’s Order 2006-150, November 6, 2006 (53 DCR 9350).

**Mayor’s Orders.** — Establishment of Recycling Policy into the District Department of the Environment, see Mayor’s Order 2009-7, January 23, 2009 (56 DCR 2022).

## § 8-151.03. District Department of the Environment; establishment; transfers.

(a) Pursuant to § 1-204.04(b), the Council establishes the District Department of the Environment as an agency within the executive branch of the District of Columbia government to consolidate the administration and oversight of environmental laws, regulations, and programs into a single agency.

(b)(1) Within 180 days of February 15, 2006, the Mayor shall:

(A) Submit to the Council a proposed organizational plan, including an organizational chart, of the DDOE;

(B) Transfer to DDOE, as feasible:

(i) Existing staff and funding, including any available grant funds and other necessary unexpended funds, from other agencies currently performing duties related to the environment;

(ii) Existing agencies, programs, departments, administrations, boards, or commissions implementing, administering, or enforcing federal or District laws relating to the environment, whether involving public or private property, including:

(I) All of the policy functions of the Tree Management Administration within the District Department of Transportation;

(II) Management of Underground Storage Tank, Toxic Substance, U.S. Environmental Protection Agency funded lead-based paint abatement and control activities lead poison prevention program [sic], Hazardous Waste of Materials [sic], and Toxic Substances divisions within the Department of Health;



(III) Management of the Air Quality, Fisheries and Wildlife, Watershed Protection, and Water Quality divisions of Environmental Quality within the Department of Health;

(IV) Policy authority for Vector Control within the Department of Health; and

(V) Those policy setting duties and functions of the Director of the Department of Public Works related to recycling policy, including:

(aa) Researching the technology available for solid waste utilization;

(bb) Identifying potential markets for recyclable materials and obtaining statements of interest for recovered materials;

(cc) Identifying the amount and characteristics of the solid waste stream in the District;

(dd) Providing an assessment of the potential impact of alternative methods of solid waste management, including the public health, physical, social, economic, fiscal, environmental, and aesthetic implications;

(ee) Conducting and evaluating the results of public forums or surveys of local citizen opinion on solid waste management practices in conjunction with the Environmental Planning Commission; and

(ff) Coordinating efforts to stimulate markets for recycled materials, including District government purchasing policies; and

(iii) Interpretative authority of all District laws, rules, regulations, and standards relating to the environment;

(C) Designate DDOE the lead agency, as that term is defined in § 8-109.02 and give DDOE primary responsibility for preparing any Environmental Impact Statement required by subchapter V of Chapter 1 of this title;

(D) If the Mayor determines primacy may be of benefit to the District, have conducted an analysis of the feasibility of assuming primacy, in accordance with subpart B [of] 40 C.F.R. 142 for SDWA; and

(E) Have conducted an analysis of the feasibility and benefit of restructuring the Storm Water Management Administration, including recommendations on how a restructured Storm Water Management will employ progressive and innovative initiatives, including those not yet recognized by the U.S. Environmental Protection Agency, to meet the environmental problems and challenges in the District.

(2) Within one year of February 15, 2006, the Mayor shall transfer those duties and functions of the General Manager of the Water and Sewer Authority related to stormwater administration, including the monitoring and coordinating the activities of all District agencies that are required to maintain compliance with the storm water permit, receiving and expending funds from the Storm Water Permit Compliance Enterprise Fund, and establishing a Storm Water Advisory Panel.

(3) Pending the transfer of functions and duties of an affected agency to DDOE, nothing in this chapter shall be construed to impair the performance by that agency of its functions and duties.

(Feb. 15, 2006, D.C. Law 16-51, § 103, 52 DCR 10812; Aug. 16, 2008, D.C. Law 17-219, § 6002, 55 DCR 7598.)



**Section references.** — This section is referenced in § 8-152.01, § 8-152.02, and § 8-152.05.

**Effect of amendments.** — D.C. Law 17-219, in subsec. (b)(1)(B)(ii)(II), substituted “and control activities lead poison prevention program” for “and control activities”.

**Legislative history of Law 16-51.** — For Law 16-51, see notes following § 8-151.01.

**Legislative history of Law 17-219.** — Law 17-219, the “Fiscal Year 2009 Budget Support Act of 2008”, was introduced in Council and assigned Bill No. 17-678, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May

13, 2008, and June 3, 2008, respectively. Signed by the Mayor on June 26, 2008, it was assigned Act No. 17-419 and transmitted to both Houses of Congress for its review. D.C. Law 17-219 became effective on August 16, 2008.

**Short title.** — Short title: Section 6001 of D.C. Law 17-219 provided that subtitle A of title VI of the act may be cited as the “Transfer of the Lead Poison Prevention Program to the District Department of the Environment Amendment Act of 2008”.

**Mayor’s Orders.** — Designation of Director of the District Department of the Environment as Natural Resources Trustee, see Mayor’s Order 2011-96, May 10, 2011 (58 DCR 4474).

## § 8-151.04. Director; appointment, compensation.

(a) The DDOE shall be headed by a Director who shall:

(1) Be appointed by the Mayor with the advice and consent of the Council, pursuant to § 1-523.01(a);

(2) Be a person qualified by training and experience to perform the duties of the office; and

(3) Serve at the pleasure of the Mayor.

(b) The Mayor shall fix the compensation of the Director pursuant to subchapter X-A of Chapter 6 of Title 1.

(Feb. 15, 2006, D.C. Law 16-51, § 104, 52 DCR 10812; Mar. 2, 2007, D.C. Law 16-191, § 104, 53 DCR 6794.)

**Effect of amendments.** — D.C. Law 16-191, in subsec. (b), validated a previously made technical correction.

**Legislative history of Law 16-51.** — For Law 16-51, see notes following § 8-151.01.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 8-115.05.

## § 8-151.05. Delegation of authority.

The Director of DDOE is the successor to all environment related authority attached to transferred functions and is authorized to act, either personally or through a designee, as a member of any committee, commission, board, or other body which his or her predecessor was a member.

(Feb. 15, 2006, D.C. Law 16-51, § 105, 52 DCR 10812.)

**Legislative history of Law 16-51.** — For Law 16-51, see notes following § 8-151.01.

## § 8-151.06. Organization.

The Director is authorized to establish administrative divisions within DDOE as the Director considers necessary to increase effectiveness and further the purposes of this chapter, which such divisions may include:

(1) An Energy Management and Air Quality Control Division, including the Office of Energy, to implement and administer clean air programs and

initiatives, to administer programs to assist nonprofit, residential, commercial, industrial, and governmental consumers in becoming more energy efficient, and to be responsible for identifying and analyzing energy issues facing the District and its residents;

(2) A Natural Resources and Water Quality Division to set policy, develop, implement, and oversee initiatives and activities to protect, restore, and enhance natural resources, such as initiatives for greening neighborhoods through community education and provision of materials, to operate and set policy for public grounds and tree management, the management of hazardous materials and toxic substances, underground storage tanks, and lead-based paint abatement and control, to set policy for vector control, to coordinate research, outreach, and rehabilitation efforts pertaining to the environment, to establish policies and programs to prevent and control water pollution, to increase the efficiency of wastewater and stormwater system regulation and soil resource management, and to conserve and enhance water quality in the District's groundwater systems and in the waters adjacent to the District;

(3) A Recycling and Solid Waste Management Division to establish policies and programs to support the District's recycling initiative and to increase the efficiency of solid and hazardous waste management;

(4) A Brownfields Redevelopment Division to identify, evaluate, remediate, and provide support to the appropriate District agencies or instrumentalities to rehabilitate sites where development is complicated by real or perceived environmental contamination;

(5) A Government Relations and Policy Division to analyze existing environmental legislation and policy and provide strategic direction for new policy initiatives, to liaison with the Mayor's Office, other District agencies, and federal agencies to advise on environmental issues and their impact on the District, to monitor federal environmental legislation and regulations, advance inter-governmental or intra-governmental agreements, where appropriate, to create general environmental policy positions for the District of Columbia, and to provide a centralized point of contact for all of the DDOE divisions to ensure the coherent development and advancement of policy and legislation; and

(6) A Community Programming and Education Outreach Division to increase public awareness of DDOE's ongoing environmental, educational, and outreach initiatives by informing District residents about the programs DDOE offers and the importance of everyone's contribution to protecting and enhancing the environment, to ensure knowledge and accessibility of DDOE programs to the diversity of the District's residents through presentations and use of printed resources and materials.

(Feb. 15, 2006, D.C. Law 16-51, § 106, 52 DCR 10812.)

**Legislative history of Law 16-51.** — For Law 16-51, see notes following § 8-151.01.

## § 8-151.07. Authority of the Director.

The Director shall administer and have authority over DDOE, its functions and personnel, including the authority to:

- (1) Re-delegate to employees authority as, in the judgment of the Director, is warranted in the interest of efficiency and sound administration;
- (2) Establish general policy and standards to promote and guide the development of environmental services in the District;
- (3) Take the steps necessary, pursuant to this chapter and federal requirements, to achieve primacy to enable the District to administer and enforce federal environmental laws, rules, regulations, standards, and programs, where it is determined that it will benefit the District;
- (4) Promulgate rules, regulations, standards, and programs to preserve, protect, and enhance the environment that are at least as stringent as corresponding federal rules, regulations, and standards;
- (5) Delegate duties, powers, and functions to other DDOE officials authorized to administer or enforce environmental laws or regulations;
- (6) Establish liaisons with other agencies to effect the purposes of this chapter;
- (7) Recruit, train, and accept without regard to District Service classification laws, rules, or regulations the services of individuals without compensation as volunteers for or in aid of activities related to areas administered by the Director, except that the Director shall not use volunteers to displace any District employee, in accordance with § 1-319.01;
- (8) Apply for and receive federal grants, the funds of which shall be used solely for the purposes specified under the terms of the grants and appropriations involved and may not be obligated or expended for any other purpose;
- (9) Establish a grant office to ensure that all potentially available federal grants are properly and timely sought;
- (10) Make awards and grants, and develop incentive programs to encourage businesses, nonprofit organizations, and community groups to voluntarily reduce energy, emissions, or take other action to improve the environment;
- (11) Execute and enforce the provisions of this chapter and the rules and regulations adopted pursuant to this chapter; and
- (12) Delegate to other employees of DDOE any of the Director's duties and powers.

(Feb. 15, 2006, D.C. Law 16-51, § 107, 52 DCR 10812; Mar. 26, 2008, D.C. Law 17-138, § 702, 55 DCR 1689.)

**Section references.** — This section is referenced in § 8-151.09.

**Effect of amendments.** — D.C. Law 17-138, in par. (10), inserted “and grants,” following “awards”, and inserted “, nonprofit organizations, and community groups” following “businesses”.

**Legislative history of Law 16-51.** — For Law 16-51, see notes following § 8-151.01.

**Legislative history of Law 17-138.** — Law 17-138, the “National Capital Revitalization Corporation and Anacostia Waterfront Corpo-

ration Reorganization Act of 2008”, was introduced in Council and assigned Bill No. 17-340 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-289 and transmitted to both Houses of Congress for its review. D.C. Law 17-138 became effective on March 26, 2008.



### § 8-151.08. Duties of the Director.

The Director shall oversee each administrative division within DDOE that he or she may establish and, in conjunction with the appropriate division, plan, program, operate, manage, control, and maintain systems, processes, and programs that impact on or relate to the environment of the District and shall:

(1) Prepare and submit to the Mayor and the Council, within one year of February 15, 2006, a comprehensive natural resource management and protection plan for the District of Columbia, including any recommendations for the repeal or amendment of existing District law or for proposed legislation that he or she considers necessary to give full force and effect to this chapter;

(2) Serve as the primary agency regarding environmental and natural resources policy and make legislative recommendations for consideration by the Mayor and the Council;

(3) Make available to the public, through seminars, publications, training programs, or other means, educational information on protecting the District's natural resources;

(4) Initiate activities that encourage local business and industry and private citizens to conserve and protect natural resources in the District of Columbia;

(5) Assist and cooperate with private, local, regional, and federal agencies and officials to protect the environment and to promote environmental awareness;

(6) Obtain, maintain, and make available to the public accurate, up-to-date information regarding the environment, including compliance data, pursuant to §§ 2-532 and 2-536; and

(7) Within one year of February 15, 2006, and every 2 years thereafter, submit a comprehensive State of the Environment report to the Council assessing the state of the environment in the District, including the activities and accomplishments of the DDOE.

(Feb. 15, 2006, D.C. Law 16-51, § 108, 52 DCR 10812.)

**Legislative history of Law 16-51.** — For Law 16-51, see notes following § 8-151.01.

### § 8-151.09. Grants office; establishment.

There shall be established within DDOE a grants office that shall have a grants development staff that will support DDOE grant writing efforts by:

(1) Identifying potential grant opportunities;

(2) Writing grant applications;

(3) Assisting DDOE programs in grant writing, including providing letters of support to community organizations seeking grants upon request;

(4) Reviewing draft proposals; and

(5) Following approval by the Director, or his designee, pursuant to § 8-151.07(9) timely submit grant applications and proposals.

(Feb. 15, 2006, D.C. Law 16-51, § 109, 52 DCR 10812.)

**Legislative history of Law 16-51.** — For Law 16-51, see notes following § 8-151.01.

**§ 8-151.10. Rulemaking.**

(a) Within 180 days of February 15, 2006, the Mayor shall promulgate rules and regulations to implement the provisions of this chapter, including the establishment of:

- (1) Fines;
- (2) Fees;
- (3) Penalties;

(4) Environmental definitions, or adoption of federal definitions as set forth in the U.S. Environmental Protection Agency publication entitled “Terms of Environment.”

(5) Requirements for the maintenance, retention, and submission of records relating to the environment to the DDOE; and

- (6) Enforcement, inspections, and hearing procedures.

(b) Proposed rules and regulations promulgated [promulgated] pursuant to subsection (a) of this section shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day period, the proposed rules shall be deemed to be disapproved.

(Feb. 15, 2006, D.C. Law 16-51, § 110, 52 DCR 10812.)

**Legislative history of Law 16-51.** — For Law 16-51, see notes following § 8-151.01.

**§ 8-151.11. Continuity; rules and regulations.**

Regulations and rules of any agency, department, administration, board, or commission, the functions of which are transferred by this chapter to DDOE and any Mayor’s order or administrative order relating to a transferred function not in conflict with this chapter shall continue in force until such time as the Mayor, or his designee, issues new rules and regulations or orders governing the subject.

(Feb. 15, 2006, D.C. Law 16-51, § 111, 52 DCR 10812.)

**Legislative history of Law 16-51.** — For Law 16-51, see notes following § 8-151.01.

**§ 8-151.12. Achieving primacy; procedure.**

(a) Prior to applying for primacy to the U.S. Environmental Protection Agency for any environmental law, the Mayor shall, in consultation with the Director of DDOE and the Chief Financial Officer of the District of Columbia, conduct a cost/benefit analysis, which shall include an economic impact analysis, performance analysis, and fiscal impact analysis, including the identification of a revenue stream to effectively assume primacy.

(b) The Mayor shall not recommend applying for primacy unless the conclusion of the cost/benefit analysis required by subsection (a) of this section is that the costs of achieving primacy would be commensurate with the benefits.

(c) If the Mayor recommends, in accordance with subsection (b) of this section, that the District apply for primacy, the Mayor shall transmit the cost/benefit analysis to the Council with a proposed resolution for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed resolution within this 45-day review period, the application for primacy shall be deemed disapproved.

(d) For the purpose of this section, “performance analysis” means the ability of the District to effectively enforce primacy, including in terms of the number of District employees needed and available, the level of specialized expertise needed and available, the number of additional employees or equipment, if any, that will be needed, and the impact of assigning existing employees or equipment to the enforcement or administration of the law for which primacy has been achieved.

(Feb. 15, 2006, D.C. Law 16-51, § 112, 52 DCR 10812.)

**Legislative history of Law 16-51.** — For Law 16-51, see notes following § 8-151.01.

### **§ 8-151.13. District Department of the Environment Fund. [Repealed].**

Repealed.

(Feb. 15, 2006, D.C. Law 16-51, § 113, 52 DCR 10812; Sept. 14, 2011, D.C. Law 19-21, § 9082, 58 DCR 6226.)

**Legislative history of Law 16-51.** — For history of Law 19-21, see notes under § 8-102.03.  
Law 16-51, see notes following § 8-151.01.

**Legislative history of Law 19-21.** — For

### **§ 8-151.14. Compilation of laws, regulations, and rules.**

(a) Within one year after February 15, 2006, the Mayor shall have compiled, indexed, and published in the District of Columbia Register all laws and regulations of the District of Columbia relating to the environment and rules adopted by the Mayor or by an agency in effect at the time of the compilation. The compilation shall be supplemented or revised periodically as necessary.

(b) The compilation, including any supplements or revisions, shall be made available to the public at a price fixed by the Mayor.

(Feb. 15, 2006, D.C. Law 16-51, § 114, 52 DCR 10812.)

**Legislative history of Law 16-51.** — For Law 16-51, see notes following § 8-151.01.



**§ 8-151.15. Applicability.**

Notwithstanding any other provision of this chapter, the provisions of this chapter shall not be implemented until appropriated funds are available to pay the cost of implementation.

(Feb. 15, 2006, D.C. Law 16-51, § 115, 52 DCR 10812.)

**Legislative history of Law 16-51.** — For Law 16-51, see notes following § 8-151.01.

*Subchapter II. Stormwater Management.*

**§ 8-152.01. Stormwater Administration.**

(a) There is established within the District Department of the Environment a Stormwater Administration (“Administration”), pursuant to § 8-151.03(b)(2). The Administration shall be responsible for monitoring and coordinating the activities of all District agencies, including the activities of the District of Columbia Water and Sewer Authority (“DC WASA”), which are required to maintain compliance with the Stormwater Permit. The Director shall designate a Stormwater Administrator to manage the Administration.

(b) The expenses of the Administration shall be disbursed from the Stormwater Permit Compliance Enterprise Fund established pursuant to § 8-152.02.

(c) The District Department of Transportation, the Department of Public Works, the Office of Planning, the Office of Public Education Facilities Modernization, the Department of General Services, the Department of Parks and Recreation, and DC WASA, and any other District agency identified by the Director (“Stormwater Agencies”), shall comply with all requests made by the Director relating to stormwater related requests, compliance measures, and activities, including the adoption of specific standards, and the submission of information, plans, proposed budgets, or supplemental budgets related to stormwater activities. In coordination with the submission of the report required by subsection (f) of this section, the Stormwater Agencies shall submit annual reports of steps implemented to fulfill or exceed their MS4 Permit obligations, as defined by the Director.

(d) At least once each fiscal year in a CapStat or comparable session, the Mayor shall review the compliance of the Stormwater Agencies with the requests made by the Director relating to MS4 Permit compliance and activities.

(e) All budgets submitted by the Mayor to the Council shall include a written determination by the Director of whether the budget adequately funds MS4 Permit compliance and activities. The Director shall inform the Council of any deficiency, and indicate the revisions that shall be made to correct the deficiency.

(f) The Director shall provide to the Mayor, the Council, and the public, the annual report submitted to the Environmental Protection Agency (“EPA”) under the terms of the Stormwater Permit.

(g) Within one year of the effective date of this section, the Director shall institute an Environmental Management System to inventory, track, and report on pollution prevention and stormwater management activities, and to hold the Stormwater Agencies accountable for progress toward meeting the performance standards and obligations required to meet the stormwater management plan of the Stormwater Permit.

(Feb. 15, 2006, D.C. Law 16-51, § 151, as added Mar. 25, 2009, D.C. Law 17-371, § 2(b), 56 DCR 1353; Sept. 26, 2012, D.C. Law 19-171, § 58(a), 59 DCR 6190.)

**Section references.** — This section is referenced in § 8-152.02.

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted “Department of General Services” for “Office of Property Management” in the first sentence of (c).

**Legislative history of Law 17-371.** — Law 17-371, the “Comprehensive Stormwater Management Enhancement Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-980 which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 23, 2009, it was assigned Act No. 17-706 and transmitted to both Houses of Congress for its review. D.C. Law 17-371 became effective on March 25, 2009.

**Legislative history of Law 19-171.** — See note to § 8-151.01.

**Editor’s notes.** — Section 4 of D.C. Law 17-371 provided: “Within 180 days of the effective date of this act, the Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), shall issue rules to implement the provisions of this act. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.”

## § 8-152.02. Stormwater Permit Compliance Enterprise Fund.

(a) There is established within the District Department of the Environment a Stormwater Permit Compliance Enterprise Fund (“Enterprise Fund”), pursuant to § 8-151.03(b)(2). The Director shall allocate the Fund resources to carry out the MS4 Permit activities that have the greatest impact on reducing stormwater pollution.

(b) Beginning in fiscal year 2010 and each year thereafter, the Mayor shall propose the Fund with an agency level budget. The Mayor shall submit to the Council, as part of the annual budget, proposed budgets that include expenditures of the Enterprise Fund for stormwater programs, including intra-District funds sufficient to fulfill the MS4 Permit obligations of the Stormwater Agencies. The proposed budgets may include funding for large-scale, multiyear projects. The Mayor shall establish benchmark and performance-measure outcomes that connect stormwater programs with funding levels.

(c) All revenues, proceeds, and moneys collected from the stormwater user fee or from grants made for stormwater activities that are collected or received, shall be credited to the Enterprise Fund and shall not, at any time, be transferred to, lapse into, or be commingled with the General Fund of the District of Columbia, the Water and Sewer Authority General Fund, the Cash Management Pool, or any other funds or accounts of the District of Columbia.



(d) Monies from the Enterprise Fund shall only be used to fund the costs of complying with the MS4 Permit, including grants for stormwater activities, all administrative, operating, and capital costs of DC WASA and the agencies identified by the Director as having specific responsibilities under the, MS4 Permit and the Stormwater Administration established pursuant to § 8-152.01. The Enterprise Fund shall also be used for DC WASA's costs of billing and collecting the stormwater user fee, as authorized by subchapter I of Chapter 21 of Title 34 [§ 34-2101.01 et seq.].

(e) Monies shall not be disbursed from the Enterprise Fund for costs associated with:

(1) Stormwater management activities carried out prior to April 20, 2000, including street sweeping, except to the extent those activities were enhanced, and their costs increased to comply with the terms of the Stormwater Permit; or

(2) Stormwater management activities otherwise required by law or regulation, unless specifically permitted by the Director.

(f) Within 90 days of March 25, 2009, the Office of the Chief Financial Officer shall convene quarterly meetings to coordinate with the fiscal officers of the Stormwater Agencies to ensure that each agency can access the Enterprise Fund to implement its activities in a timely manner.

(Feb. 15, 2006, D.C. Law 16-51, § 152, as added Mar. 25, 2009, D.C. Law 17-371, § 2(b), 56 DCR 1353; Sept. 24, 2010, D.C. Law 18-223, § 1122, 57 DCR 6242; Sept. 26, 2012, D.C. Law 19-171, § 58(b), 59 DCR 6190.)

**Section references.** — This section is referenced in § 8-152.01.

**Effect of amendments.** — D.C. Law 18-223 rewrote subsec. (e)(1), which had read as follows: "(1) Stormwater management activities carried out prior to April 20, 2000, except to the extent those costs increased to comply with the terms of the Stormwater Permit; or"

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (d).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 1122 of Fiscal Year 2011 Budget Support Emergency

Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 17-371.** — For Law 17-371, see notes following § 8-152.01.

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 8-102.05.

**Legislative history of Law 19-171.** — See note to § 8-151.01.

**Short title.** — Short title: Section 1121 of D.C. Law 18-223 provided that subtitle M of title I of the act may be cited as the "Stormwater Permit Compliance Fund Clarification Amendment Act of 2010".

## § 8-152.03. Stormwater User Fee Discount Program.

(a) Within one year of the enactment of an impervious area stormwater user fee by DC WASA, the Mayor shall establish a Stormwater User Fee Discount Program to be coordinated between DC WASA and the Administration.

(b) The program shall allow property owners who implement measures to manage stormwater runoff from their properties to receive a discount on the stormwater user fee assessed to them under § 34-2202.16.

(c) Stormwater user fee discounts approved by the Mayor shall be retroactive to no earlier than the date of the implementation of the impervious area stormwater fee. A property owner may not qualify for a stormwater user fee



discount until the stormwater management measures for which they seek a discount are demonstrated to be fully functional.

(d) Any discount earned under this section will be revocable upon a finding by the Mayor of non-performance. Upon a finding of non-performance, the Mayor may require reimbursement of any portion of fees discounted to date.

(e) Findings of non-performance by the Mayor may be appealed by an applicant pursuant to rules established by the Mayor.

(f) Failure to reimburse may result in a lien being placed upon the property without further notice to the owner. The Mayor may enforce the lien in the same manner as in § 34-2407.02.

(Feb. 15, 2006, D.C. Law 16-51, § 153, as added Mar. 25, 2009, D.C. Law 17-371, § 2(b), 56 DCR 1353; Sept. 26, 2012, D.C. Law 19-171, § 58(c), 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (f).

**Legislative history of Law 17-371.** — For Law 17-371, see notes following § 8-152.01.

**Legislative history of Law 19-171.** — See note to § 8-151.01.

## § 8-152.04. Stormwater management and Low Impact Development grants.

(a) The Mayor, in coordination with DC WASA, shall establish a grant program to provide Enterprise Funds for grants and direct services to property owners in the District to employ LID or stormwater best management practices.

(b) Funding for such grants will be contingent on maintaining adequate Enterprise Funds to address District obligations pursuant to the MS4 Permit.

(c) Within one year of the effective date of this section, the Director of the Department of Transportation (“DDOT”) shall submit to the Director an action plan recommending policies and measures to reduce impervious surfaces and promote LID projects in the public space. The action plan shall incorporate:

(1) New DDOT policies to reduce impervious surface and employ other LID measures in right-of-way construction projects and retrofit projects;

(2) A revised DDOT public space permitting process and the development of a mechanism to minimize stormwater runoff from the public right-of-way;

(3) Requirements and incentives for private developers to reduce impervious surface and employ LID measures when their projects extend into the public right-of-way;

(4) Policies, including fees, for the use of public space to manage stormwater runoff from private property;

(5) Policies to address ongoing maintenance of LID or stormwater best management practices installed in public right-of-way areas adjacent to private property;

(6) Strategies to remove impediments to LID projects on residential properties relating to public space; and

(7) Costs for each recommendation and a recommended timeline for

funding in the Mayor's proposed budget. The Mayor shall incorporate these recommendations in the next and subsequent proposed annual budgets.

(d)(1) Within one year of March 25, 2009, the Director, together with the Stormwater Agencies, shall prepare a study recommending policies and measures developed to implement LID and stormwater best management practices on District properties. The Mayor shall incorporate these recommendations in the next and subsequent proposed annual budgets.

(2) For each LID or stormwater best management practice installed, the Mayor shall require a maintenance agreement by District agencies to provide for their ongoing operation and maintenance to ensure installed practices continue to function as designed and installed to provide stormwater pollution reductions.

(e) The Director shall include among DDOE's public educational efforts a campaign to inform the public on the benefits of preventing pollution from stormwater runoff, and to provide recommendations on how the general public can help keep the District's waterways free of pollution. The Director shall also initiate outreach actions with upstream jurisdictions to encourage their implementation of similar stormwater reduction activities.

(f) The Director shall work with DC WASA to collect and evaluate scientific data on the effects of low impact development on reducing stormwater runoff to develop a plan for aggressive use of low impact development technologies to reduce the cost and size of any large-scale civil engineering solutions to reducing stormwater pollution of the area's waterways. The Director shall inform the Stormwater Advisory Panel, and representatives of upstream jurisdictions, the Washington Metropolitan Area Transit Authority, and the federal government of the scientific data and analyses drawn from the data.

(Feb. 15, 2006, D.C. Law 16-51, § 154, as added Mar. 25, 2009, D.C. Law 17-371, § 2(b), 56 DCR 1353.)

**Legislative history of Law 17-371.** — For Law 17-371, see notes following § 8-152.01.

## § 8-152.05. Stormwater Advisory Panel.

(a) There is established within the District Department of the Environment a Stormwater Advisory Panel ("Panel"), pursuant to § 8-151.03(b)(2). The Panel shall coordinate the responsibilities of the agencies and DC WASA, and shall prepare comprehensive recommendations to the Council that identify the best means by which the District can meet or exceed all present and future federal regulatory and permit requirements, pertaining to the discharge of stormwater into receiving waters.

(b) The Panel shall be comprised of the executive officers with responsibilities pursuant to the MS4 Permit, with oversight responsibility for the administrative and financial aspects of stormwater management, or that engage in activities that impact the District's stormwater discharge:

(1) The members of the Panel shall be:

(A) The City Administrator;

(B) The Chief Financial Officer;

- (C) The Director, who will serve as the Panel's Chair;
- (D) The Stormwater Administrator;
- (E) The Director of the Department of Transportation;
- (F) The Director of the Department of Public Works;
- (G) The Director of the Office of Planning;
- (H) The Director of the Office of Public Education Facilities Moderniza-

tion;

- (I) The Director of the Department of General Services;
- (J) The Director of the Department of Parks and Recreation; and
- (K) The General Manager of DC WASA.

(2) The Director may designate additional members from other agencies whose activities impact the District's stormwater runoff.

(3) The Director shall engage and encourage participation from representatives of the Washington Metropolitan Area Transit Authority and the federal government, including the U.S. General Services Administration and the National Parks Service.

(c) The Panel shall hold its first meeting within 90 days of March 25, 2009. The Panel shall hold at least one public hearing to receive testimony from citizens with respect to the issues stated in subsection (e)(1) and (2) of this section.

(d) The Panel shall meet at least 2 times each year.

(e) The Panel shall provide its recommendations in the annual report required to be submitted to EPA Region III under the MS4 Permit. The report shall make specific findings on:

(1) Whether the existing allocation of stormwater management responsibilities among District agencies are capable of fulfilling or exceeding present and future regulatory requirements for stormwater discharge, and if not, what changes need to be made or new government entities created;

(2) Comprehensive recommendations, specific standards adopted, and steps implemented by the respective agency to fulfill or exceed its obligation to meet its share of federal regulatory and MS4 Permit requirements pertaining to the discharge of stormwater into receiving waters; and

(3) Whether the existing stormwater user fee structure and rates are equitable and sufficient for the District to fulfill or exceed its present and future regulatory requirements for stormwater discharge, and, if not, what changes in fee structure and rate would be required to fulfill these responsibilities.

(f) Within one year of March 25, 2009, the Panel shall provide to the Council and the Mayor a study of the needs for achieving water quality compliance from the District's stormwater runoff.

(g) Panel members shall ensure that their agencies participate in the Environmental Management System to track compliance with the District's MS4 Permit obligations and other stormwater management responsibilities required to reduce pollution to the District's waters.

(h) Within 120 days after March 25, 2009, the Panel shall establish a Technical Working Group ("TWG") of agency technical staff.

(1) The TWG shall consist of the following 14 members:



(A) Each Panel member shall appoint one member of the TWG.

(B) The Mayor, the Chairman of the Council of the District of Columbia, and the Chairman of the Council committee with oversight over the District Department of the Environment shall each appoint one member; provided, that the appointees shall be non-agency stakeholders who are geographically diverse, and shall have expertise in stormwater management, land development, hydrology, natural resources conservation, environmental protection, environmental law, or other similar stormwater management expertise.

(2) TWG members shall serve a 2-year term, and without compensation.

(3) The Chairperson of the TWG shall be the Stormwater Administrator.

(4) The TWG shall attend monthly meetings with the Stormwater Administrator and coordinate tracking and reporting of stormwater management activities of their agencies' efforts. The TWG shall also:

(A) Advise the Panel on technical matters and respective agency MS4 Permit compliance requirements;

(B) Make recommendations to the Panel regarding existing District agency rules, regulations, and policies that might create barriers to the implementation of LID or stormwater best management practices in the District; and

(C) Suggest programmatic incentives for best management practices which were successfully implemented in other jurisdictions to promote the implementation of these stormwater management practices on new and existing properties in the District.

(5) DDOE shall provide staff assistance to the TWG.

(Feb. 15, 2006, D.C. Law 16-51, § 155, as added Mar. 25, 2009, D.C. Law 17-371, § 2(b), 56 DCR 1353; Sept. 26, 2012, D.C. Law 19-171, § 58(d), 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted "Department of General Services" for "Office of Property Management" in (b)(1)(I); and validated the "March 25, 2009" date translation in the introductory language of (h).

**Legislative history of Law 17-371.** — For Law 17-371, see notes following § 8-152.01.

**Legislative history of Law 19-171.** — See note to § 8-151.01.

### *Subchapter III. Product Limitation of Stormwater Management.*

#### **§ 8-153.01. Coal tar limitations.**

(a) For the purposes of this section, the term "coal tar pavement product" means a material that contains coal tar and is for use on an asphalt or concrete surface, including a driveway or parking lot.

(b) No person shall sell, offer for sale, use, or permit to be used on property he or she owns, a coal tar pavement product.

(c)(1) Any person who violates this section shall be liable to the District for a civil penalty in an amount not to exceed \$ 2,500 for each violation.

(2) For any violation, each day of the violation shall constitute a separate offense and the penalties prescribed shall apply separately to each offense.

(3) Adjudication of any infraction of this section shall be pursuant to Chapter 18 of Title 2 [§ 2-1801.01 et seq.].

(d) This section shall apply as of July 1, 2009.

(Feb. 15, 2006, D.C. Law 16-51, § 181, as added Mar. 25, 2009, D.C. Law 17-371, § 2(c), 56 DCR 1353; Sept. 26, 2012, D.C. Law 19-171, § 149(b), 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted “permit to be used on property” for “permit to be used, on property” in (b).

**Legislative history of Law 17-371.** — Law 17-371, the “Comprehensive Stormwater Management Enhancement Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-980 which was referred to the Committee on Public Works and the Environment.

The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 23, 2009, it was assigned Act No. 17-706 and transmitted to both Houses of Congress for its review. D.C. Law 17-371 became effective on March 25, 2009.

**Legislative history of Law 19-171.** — See note to § 8-151.01.

CHAPTER 1B. DISTRICT OF COLUMBIA OFFICE OF ENERGY.

Sec.	Sec.
8-171.01. Legislative findings; purposes.	emergency energy shortage contingency plan; energy research and development program.
8-171.02. Definitions.	
8-171.03. Energy policy of District.	8-171.05. [Repealed].
8-171.04. District of Columbia Office of Energy; energy conservation plan; facilities energy management plan;	8-171.06. [Expired].
	8-171.07. Severability.

§ 8-171.01. Legislative findings; purposes.

(a) The Council of the District of Columbia finds that:

(1) An adequate, reliable, and continuous supply of energy is essential to the health, safety, and welfare of the citizens of the District of Columbia and to sustain the growth of the District's economy;

(2) The District of Columbia is seriously threatened and adversely affected by the increasing shortages and the escalating prices of nonrenewable energy resources;

(3) Growth in the consumption of energy resources is due in part to wasteful and inefficient uses of energy, and the continuation of this trend will adversely affect the social, economic, and environmental development of the District of Columbia;

(4) It is the responsibility of the District of Columbia government to encourage and foster a reliable and adequate supply of energy resources for the District at a level consistent with the protection of public health and safety, the promotion of the general welfare and economic well-being, and the promotion of environmental quality;

(5) The District of Columbia must provide for the development of a unified energy policy:

(A) To minimize duplication and overlapping responsibilities for energy-related matters among various District departments, commissions, and agencies; and

(B) To ensure a reliable and adequate supply of energy resources for the District's citizens and economy; and

(6) The establishment of the District of Columbia Office of Energy is in the public interest and will promote the general welfare of the public by assuring coordinated and efficient management of the District's energy policy and programs.

(b) The purposes of this chapter are as follows:

(1) To establish the District of Columbia Office of Energy;

(2) To provide for the development of a comprehensive energy plan, policy, and programs for the District of Columbia;

(3) To achieve effective management of energy functions of the District government through the District of Columbia Office of Energy in cooperation with the Public Service Commission of the District of Columbia, the People's Counsel of the District of Columbia, and all other appropriate District agencies and departments;

(4) To provide for the development of an emergency energy shortage contingency plan to ensure the health, safety, and welfare of District of



Columbia citizens and industry during any public emergency, caused by an actual or impending acute shortage of usable energy resources; and

(5) To encourage and ensure full and effective public participation in formulation and implementation of a District of Columbia energy policy.

(Mar. 4, 1981, D.C. Law 3-132, § 2, 28 DCR 445.)

**Prior Codifications.** — 2001 Ed. § 2-901.  
1981 Ed., § 1-1901.

**Legislative history of Law 3-132.** — Law 3-132 was introduced in Council and assigned Bill No. 3-192. The Bill was adopted on first and

second readings on November 25, 1980 and December 9, 1980, respectively. Signed by the Mayor on January 7, 1981, it was assigned Act No. 3-341 and transmitted to both Houses of Congress for its review.

## § 8-171.02. Definitions.

As used in this chapter:

(1) The term “agency” means and includes any executive department, or other establishment in the executive branch of the District of Columbia government or any independent regulatory agency as defined in § 2-502(3).

(2) The term “appliance” means any energy consuming article or device designed for household use or small business use, the primary purpose of which is labor saving or personal convenience, and which, although connected to public utilities servicing a building, is not attached to the building in such a way that it would be considered a part of the building or building system. Central heat pumps, central air conditioners, and central heating units are not appliances for the purposes of this chapter.

(3) The term “building” means any structure which includes provisions for a heating, ventilating, or cooling system, or for a hot water system.

(4) The term “building code” means property standards in the Building Code approved pursuant to the Construction Codes Approval and Amendments Act of 1986.

(5) The term “car pool” means a joint arrangement by a group of private persons in which each in turn drives a privately-owned car and carries other passengers.

(6) The term “construction” means on-site work to install permanent equipment or structure for any facility.

(7) The term “Council” means the Council of the District of Columbia.

(8) The term “Director” means the Director of the District of Columbia Office of Energy.

(9) The term “District” means the District of Columbia.

(10) The term “District-assisted facility” means any building, the construction, capital, or operating costs of which are financed in whole or in part by the District’s general or special fund appropriations, or disbursements, or by federal funds.

(11) The term “energy” means work that is, or may be, produced from any fuel or source whatsoever.

(12) The term “energy audit” means a process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of an energy conservation measure or renewable energy resources measure, through improved energy management procedures.

(13) The term “energy auditor” means any person who has:

- (A) A valid mechanical, electrical, engineering, or architectural license;
- (B) Successfully completed an approved District of Columbia energy audit training course for those persons familiar with heating, ventilating, and air conditioning systems; or
- (C) Otherwise qualified by virtue of training or experience.

(14) The term “energy conservation” means the efficient use of energy resources.

(15) The term “energy conservation measure” means a modification which has been determined by means of an energy audit or by a rule of the District of Columbia Office of Energy to likely improve the efficiency of energy use.

(16) The term “energy distributor” means any person who imports energy resources into the District of Columbia for use, distribution, storage, or sale; and any person who produces, refines, manufactures, blends, or compounds energy resources, and sells, uses, stores, or distributes the same within the District: Provided, however, that in no case shall a retail dealer be construed to be a distributor.

(17) The term “energy efficiency guidelines” means, with respect to particular buildings, industrial plants, appliances, or energy resource consuming articles, the measures, or minimum accepted levels of energy conservation which the District of Columbia Office of Energy determines to be appropriate for the location and category of such or similar buildings, industrial plants, appliances, energy resources, or energy consuming articles.

(18) The term “energy information” includes:

- (A) All information in whatever form of:
  - (i) Fuel reserves, exploration, extraction, and energy resources (including petrochemical feedstocks) wherever located;
  - (ii) Production, distribution, and consumption of energy and fuels wherever carried on; and

(B) Matters relating to energy and fuels, such as corporate structure and proprietary relationships, costs, prices, capital investment, assets, and other matters directly related thereto, wherever they exist.

(19) The term “energy resources” means any force or material which yields, or has the potential to yield energy, including, but not limited to, electricity, petroleum products, residual fuel oil, distillate fuel oil, natural gas, methane, liquified natural gas, manufactured or synthetic fuel gases, coal, solid wastes, biomass, wood, solar radiation, geothermal or mineral formations, thermal gradients, wind, water, enriched uranium U235 and U238, plutonium U239, or other nuclear fuels.

(20) The term “environmental residual” means any pollutant or pollution-causing factor which results from any activity.

(21) The term “life-cycle cost” means the total costs of owning, operating, and maintaining a building, industrial plant, appliance, or energy consuming article over its economic life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of alternative costs for such buildings, industrial plants, appliances or energy consuming articles.

(22) The term “life-cycle cost analysis” means the estimation and comparison of the life-cycle costs of buildings, industrial plants, appliances, or energy



consuming articles so as to increase the efficient use of a particular building, industrial plant, appliance, or energy consuming article.

(23) The term “Mayor” means the Mayor of the District of Columbia.

(24) The term “nonresidential building” means any building which is not a residential building which, including, but is not limited to, multi-purpose buildings, such as school learning centers, office/retail buildings, hospitals, sports arenas, retail stores, and transportation terminals.

(25) The term “Office” means the District of Columbia Office of Energy established by this chapter.

(26) The term “performance standards” means rules and regulations adopted by the Office which establish minimum acceptable levels of site design, site preparation, exterior and interior appurtenances which apply to buildings or industrial plants, or which establish minimum acceptable levels of life-cycle cost and life-cycle cost analysis, which apply to purchasing and procurement practices.

(27) The term “person” means any individual, public or private corporation, partnership, firm, association, organization, trustee or other fiduciary, company, board, bureau, commission, department, authority, agency, committee, council, legislative committee, public agency, public utility, the District or any agency or instrumentality thereof, and the United States to the extent authorized by federal law or other legal entity.

(28) The term “renewable energy source” means energy resources which are capable of being continuously restored by natural or other means, or which are so large as to be useable for centuries without significant depletion, and include, but are not limited to, solar radiation, solid wastes, biomass, wind, geothermal formations, tidal and other water resources, thermal gradients, deuterium, and hydrogen.

(29) The term “renewable energy resource measure” means a modification which has been determined by means of an energy audit or a rule of the District of Columbia Office of Energy to involve changing, in whole or in part, the energy resources used to meet the requirements of any building or industrial plant from a nonrenewable energy resource to a renewable energy source.

(30) The term “residential” means any building which is exclusively residential or residential mixed-purpose buildings, including, but not limited to, residential, retail, office, or recreational.

(31) The term “retail dealer” means any person who engages in the business of selling energy resources from a delivery vehicle or from a fixed location, such as a service station, filling station, store, or garage, directly to the ultimate users of said energy resources.

(Mar. 4, 1981, D.C. Law 3-132, § 3, 28 DCR 445; Mar. 21, 1987, D.C. Law 6-216, § 13(b), 32 DCR 1072.)

**Cross references.** — Construction codes, see § 6-1401 et seq.

**Prior Codifications.** — 2001 Ed., § 2-902.  
1981 Ed., § 1-1902.

**Legislative history of Law 3-132.** — For

legislative history of D.C. Law 3-132, see Historical and Statutory Notes following § 2-901.

**Legislative history of Law 6-216.** — Law 6-216 was introduced in Council and assigned Bill No. 6-500, which was referred to the Com-



mittee of the Whole. The Bill was adopted on first and second readings on November 18, 1986 and December 16, 1986, respectively. Signed by the Mayor on February 2, 1987, it was assigned Act No. 6-279 and transmitted to both Houses of Congress for its review.

**References in text.** — The "Construction Codes Approval and Amendments Act of 1986," referred to in paragraph (4), is D.C. Law 6-216.

### § 8-171.03. Energy policy of District.

The energy policy of the District of Columbia shall be the following:

- (1) To ensure, to the maximum extent practicable, an adequate, economically affordable, and reliable supply of energy for all citizens, businesses, and industries in the District;
- (2) To foster prudent research, development, and use, within the District, of a diverse array of energy resources, with emphasis on renewable energy resources;
- (3) To employ energy conservation techniques, including performance standards, and energy audits, in the design, construction, and renovation of District-owned and assisted facilities, and in the procurement of District materials and supplies for the District government;
- (4) To promote energy conservation in the construction and operation of residential and nonresidential buildings through energy efficient guidelines, energy audits, and through proven techniques for heating, lighting, cooling, ventilating, insulating, and building design and operation;
- (5) To cooperate and assist departments and other agencies or instrumentalities of federal, state, and local government, in the development, implementation, and coordination of energy policies and programs;
- (6) To encourage energy efficient modes of transportation for people and goods, including, but not limited to, public transportation, park-and-ride lots, van pools and car pools, electric and hybrid vehicles; and other energy efficient forms of transportation, variable work schedules, preferential traffic controls, and urban area traffic restrictions;
- (7) To assist District citizens and industry, during emergency energy shortages, in managing scarce energy resources in order to maintain the public health, safety, and welfare, and to minimize the adverse impact on the physical, social, and economic well-being of the District of Columbia;
- (8) To assist and advise industries, businesses and public utilities of the District in the application of energy conservation and supply enforcement measures in industrial and commercial apparatus and processes, and to promote the availability of reliable and abundant energy resources for the use of industrial, commercial, and public utility energy users in the District;
- (9) To promote community development and job creation by encouraging establishment of District-based conservation and renewable energy businesses and cooperatives;
- (10) To promote and secure the location within the District of Columbia of projects, programs, installations, grants, loans, funds, and other public or private capital investments for the research, development, innovation, and demonstration of uses, processes, apparatuses, and other applications of energy technologies utilizing renewable energy resources;

(11) To assure that the District's energy policies and plans developed under this chapter shall be, to the maximum extent practicable, consistent with the statutory environmental policies of the District;

(12) To protect energy consumers and users from unfair, deceptive, and anti-competitive acts and practices employed in the marketing, advertising, and selling of energy conserving goods and services;

(13) To utilize public funds as a means of ensuring equity in the way energy costs are allocated, including, but not limited to, programs which will aid low- and moderate-income citizens in developing energy efficient housing, in gaining access to renewable sources of energy and in meeting the costs of high utility bills;

(14) To assist small businesses in developing energy efficient management techniques, and assist with energy conservation efforts as well as other related activities which will alleviate the burden of escalating costs;

(15) To provide a source of impartial and objective information in order that this energy policy may be achieved; and

(16) To encourage and ensure full and effective public participation in the formulation and implementation of a District energy policy.

(Mar. 4, 1981, D.C. Law 3-132, § 4, 28 DCR 445.)

**Section references.** — This section is referenced in § 8-171.04.

**Prior Codifications.** — 2001 Ed., § 2-903.  
1981 Ed., § 1-1903.

**Legislative history of Law 3-132.** — For legislative history of D.C. Law 3-132, see Historical and Statutory Notes following § 2-901.

## **§ 8-171.04. District of Columbia Office of Energy; energy conservation plan; facilities energy management plan; emergency energy shortage contingency plan; energy research and development program.**

(a) *Establishment of the District of Columbia Office of Energy.* —

(1) The District of Columbia Office of Energy is established in the executive branch of the government of the District of Columbia, and shall have the powers, duties, and functions vested in it by the provisions of this chapter.

(2) All of the powers, duties, and functions assigned to the District of Columbia Energy Unit of the Executive Office of the Mayor shall be transferred to the District of Columbia Office of Energy. All positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available relating to the powers, duties, and functions so transferred, are transferred to the District of Columbia Office of Energy as created by this chapter.

(b) *Appointment of the Director of the District of Columbia Office of Energy.* — The administrator and head of the Office shall be the Director of the District of Columbia Office of Energy, who shall be a person qualified by training and experience to perform the duties of the Office. The Director shall be a resident of the District of Columbia and shall be appointed by the Mayor, and confirmed by the Council of the District of Columbia.



(c) *Powers, duties, and functions of Director.* — The Director shall:

(1) Supervise, direct, and account for the administration and operation of the Office, its units, functions, and employees; and

(2) Coordinate and facilitate the overall effort of the District of Columbia government to achieve energy conservation and renewable resource utilization by devising pertinent policies, plans, and programs.

(d) *Powers, duties, and functions of Office.* — The District of Columbia Office of Energy is authorized to:

(1) Advise the Mayor on current or impending energy related problems and to serve as the lead agency to develop and implement the District's response to such problems;

(2) Act as central repository and clearinghouse for the collection and public inspection of data and information with respect to energy resources and energy matters in the District, including, but not limited to: (A) Data on energy supply, demand, costs, projections, and forecasts; and (B) inventory data on energy research and development projects, studies, or other programs conducted in the District under public and private supervision or sponsorship of both and the results thereof. The Office shall develop an energy information reporting system for use by all government agencies and by the general public;

(3) Develop and recommend to the Mayor a comprehensive long-range District energy plan to achieve maximum effective management and use of present and future sources of energy, including, but not limited to, an energy conservation plan, a District facilities energy management plan, an annual energy supply and demand forecast, an emergency energy shortage contingency plan, and an energy research and development program;

(4) Plan, oversee, and coordinate the various programs mandated by the federal energy conservation acts: The 1975 Energy Policy and Conservation Act (42 U.S.C. § 6201), the 1976 Energy Conservation and Production Act (42 U.S.C. § 6801), the National Energy Conservation Policy Act of 1978 (42 U.S.C. § 8201), and any subsequent federal energy conservation and related legislation; and identify additional federal or other grant opportunities for District of Columbia energy programs, and coordinate the preparation and submission of energy grant applications for other departments, offices, and agencies: Provided, however, that no provisions of this chapter shall be construed to limit the authority of any independent commission, office, board, or agency of the District of Columbia to apply for and receive federal and private grants;

(5) Develop and implement a District of Columbia fuel allocation program in a manner consistent with District energy policies;

(6) Act as the lead agency to represent the District before the federal government, other state and local governments, regional governments, and other appropriate public and private agencies in all energy and energy resource matters;

(7) Promote the development of energy-related businesses and employment in the District of Columbia, with special emphasis on renewable resource technologies and markets;

(8) Promote the application of energy conservation and renewable resource principles and policies in land use planning, zoning, building regula-



tions, capital improvements, and lease agreements for government offices or other space needs;

(9) Coordinate the development and implementation of energy assistance policies and programs for low-income, fixed-income, and elderly households;

(10) Require, in order to assure the adequate development of relevant energy information as provided in paragraph (2) of this subsection, that all energy distributors and major energy consumers file such reports, data, and forecasts as the Office may require.

(A) In obtaining information under this paragraph, the Office:

(i) Shall, to the maximum extent feasible, provide that reports, data, and forecasts be consistent with material required by the District of Columbia and federal agencies in order to prevent unnecessary duplication; and

(ii) May, with the written consent of the Mayor, subpoena witnesses, material, and relevant books, papers, accounts, records, and memoranda; administer oaths; and cause the deposition of persons residing within or without the District to be taken in the manner prescribed for depositions in civil actions in the Superior Court of the District of Columbia; and

(B) Information furnished under this paragraph shall be confidential and maintained as such, if so requested by the person providing the information, if the information is proprietary in nature. Nothing in this subsection shall prohibit the use of confidential information to prepare statistics or other general data for publication when so presented as to prevent identification of particular persons or sources; nor shall the confidentiality requirement of this subsection apply to information furnished by, or relating to, governmental agencies, or to public utilities, or to carriers regulated by the Public Service Commission or by the Washington Metropolitan Area Transit Commission, or by any of the federal regulatory agencies; Provided, that utility customer account information shall remain confidential unless such confidentiality is expressly waived by the individual customer whose account is affected;

(11) Provide for the training and certification of energy auditors, and provide for such energy audits as may be deemed necessary and desirable to carry out the purposes, programs, and policies of this chapter or any other energy-related law applicable to the District; to the maximum extent feasible, the energy audit program should be carried out as a decentralized, neighborhood-based effort;

(12) Require the annual submission of energy audit reports and conservation plans by departments, offices, boards, bureaus, commissions, authorities, and other agencies or instrumentalities of the District, and in cooperation with the Department of General Services, evaluate the plans and the progress of the agencies and instrumentalities in meeting the goals of the plans, and advise the agencies and instrumentalities of improvements or changes to be made in their plans, programs, and goals;

(13) Conduct hearings and investigations in order to carry out the purposes, programs, and policies of this chapter, and to issue subpoenas in furtherance of such authority;

(14) Assist the Corporation Counsel and Office of Consumer Protection in safeguarding consumers from unfair, deceptive, and anticompetitive acts and

practices in the marketing, selling, or distributing of energy, energy resources, energy technologies, and energy conserving goods or services;

(15) Evaluate policies governing the establishment of rates and prices for energy as related to energy conservation, and, through formal intervention before the District of Columbia Public Service Commission, recommend changes in energy pricing policies and rate schedules;

(16) Appoint, with the written consent of the Mayor, such advisory committees, boards, and task forces as are necessary and desirable to carry out the purposes and policies of this chapter; and

(17) Promulgate regulations pursuant to the District of Columbia Administrative Procedure Act (§ 2-501 et seq.), to conduct public hearings, and to fulfill all duties and responsibilities of the Office granted pursuant to this chapter.

(e) *Components of energy conservation plan.* —

(1) The Office shall prepare and recommend, as part of a comprehensive energy plan for the District, an energy conservation plan for transmittal to the Mayor; the initial plan to be completed 180 days after monies have been appropriated to fund the District of Columbia Office of Energy.

(2) The energy conservation plan shall be designed to ensure the public health, safety, and welfare of the citizens and economy of the District of Columbia and to encourage and promote conservation of energy through reducing wasteful, uneconomical, or inefficient uses.

(3) The energy conservation plan may include, but not be limited to, the following:

(A) Recommendations for District energy conservation goals, consisting of a percentage change in projected energy consumption in the District for the years 1981, 1985, and 1990; which goals are economically feasible and are achievable by implementation of the energy conservation plan; and specific plans of action to achieve these goals;

(B) Recommendations for a continuing program of public education, to increase public awareness of the energy and cost savings likely to result from energy conservation; and to provide public information and technical assistance in the planning, financing, installing, and monitoring of energy conservation measures;

(C) Recommendations to the District of Columbia Department of Transportation of programs and policies to encourage energy efficient modes of transportation for people and goods, including, but not limited to, public transportation, park-and-ride lots, van pools and car pools, electric and hybrid vehicles, and other energy efficient forms of transportation, variable working schedules, preferential traffic controls, and urban area traffic restrictions;

(D) Recommendations of energy conservation measures and renewable energy resource measures which:

(i) Can be carried out in residential and nonresidential buildings;

(ii) Increase the efficient use of energy; and

(iii) Are economically feasible to implement, based on climatic, environmental, demographic, architectural, and economic conditions within the District; and recommend programs and policies to encourage, promote, and finance such measures; and



(E) Any other recommendations which the Office considers to be a significant part of a District-wide energy conservation effort and goal, and which include provisions for sufficient incentives to further energy conservation.

(4) The energy conservation plan may include a detailed description of the following:

- (A) The estimated energy savings;
- (B) The estimated effects on public budgets and revenues;
- (C) The estimated impact on District economy;
- (D) The estimated increase or decrease in environmental residuals as a result of implementing the plan; and
- (E) The estimated impact of existing energy plans on District economy.

(5) The energy conservation plan shall contain proposals for implementing the recommendations made pursuant to paragraph (3) of this subsection as can be carried out by order of the Mayor.

(6) The Office shall hold such public hearings on the energy conservation plan as it deems necessary and desirable. Upon completion of the energy conservation plan and public hearings on such plan, the Office shall transmit the plan to the Mayor for approval or disapproval. Upon approval of the plan, the Mayor shall assign administrative responsibility to appropriate agencies of the District government for implementation of the plan as may be carried out by order of the Mayor.

(7) The Mayor shall transmit the approved energy conservation plan to the Council of the District of Columbia and make copies available for public inspection.

(8) At least once every 3 years, or whenever such changes take place as would significantly affect energy supply or demand in the District, the Office shall review and, if necessary, revise the energy conservation plan, transmitting the revised plan to the Mayor. The public hearing procedures contained in paragraph (6) of this subsection shall not apply to any review of revisions of the energy conservation plan which take place within 3 years of any public hearings held on the plan or a revised plan.

(f) *Components of facilities energy management plan.* —

(1) The Office shall coordinate the preparation of, and recommend as part of the comprehensive energy plan for the District, a facilities energy management plan for transmittal to the Mayor, the initial plan to be completed 180 days after monies have been appropriated to fund the District of Columbia Office of Energy.

(2) The District facilities energy management plan shall be designed to ensure that energy conservation methods and life-cycle cost analysis are employed in the design, acquisition, lease, construction, renovation, and maintenance of all new and existing District-assisted facilities, and in the procurement and purchase of all District materials, supplies, and vehicles.

(3) The District facilities energy management plan may include, but not be limited to, the following:

(A) Development, promulgation, and maintenance of a life-cycle cost analysis method to be applied and enforced by the Department of General



Services in reviewing the design, construction, renovation, and maintenance of District-owned facilities, and in the procurement of District materials, supplies, and vehicles. The Department of General Services shall also have the authority to review the design, construction, renovation, and maintenance of District-assisted facilities only for the purposes of advising the management of such facilities with respect to application of the life-cycle cost analysis methods developed under this paragraph;

(B) A program of energy audits of District-owned and District-assisted facilities, which audits shall, to the extent practicable, be developed and maintained by periodic revision in cooperation with designated representatives of said facilities;

(C) Development, maintenance, and distribution to District-owned and District-assisted facilities of guidelines, recommendations, and technical assistance for energy conservation measures and renewable energy resource measures to be employed, installed, and monitored in the facilities and in the procurement and purchase of materials, supplies, and vehicles by the District government; and

(D) A detailed description of the estimated energy savings, effect on public budgets and revenues, impact on the District economy, and increase or decrease in environmental residuals of implementing the District facilities energy management plan.

(4) The District facilities energy management plan may contain proposals for the implementation of such recommendations as may be carried out by order of the Mayor.

(5) Upon completion of the draft plan, the Office and the Mayor shall follow the procedures as outlined in subsection (e) of this section, and § 8-171.05 [repealed]: Except, that no public hearings on the plan shall be required.

(6) The Office shall update the District facilities energy management plan upon a finding by the Office that an update is justified.

(g) *Emergency Energy Shortage Contingency Plan.* —

(1) The Office in cooperation and consultation with the Public Service Commission, Office of People's Counsel, and the Homeland Security and Emergency Management Agency and other appropriate District agencies shall, as part of the comprehensive energy plan for the District, prepare a recommended emergency energy shortage contingency plan for transmittal to the Mayor, the initial plan to be completed 180 days after monies have been appropriated to fund the District of Columbia Office of Energy.

(2) The emergency energy shortage contingency plan shall be designed to protect the public health, safety, and welfare, minimize the adverse impact on the physical, social, and economic well-being of the District, and provide for the fair and equitable allocation of scarce energy resources, during emergency energy shortages.

(3) In preparing the plan, the Office shall collect and compile from all relevant governmental agencies, including the Public Service Commission, the Homeland Security and Emergency Management Agency, and the United States Department of Energy, any existing contingency and energy allocation

or curtailment plans for dealing with emergency energy shortages, or information related thereto.

(4) The Office may hold 1 or more public hearings, investigate and review the plans submitted pursuant to this subsection, and shall approve and recommend to the Mayor the emergency energy shortage contingency plan to be implemented upon adoption by the Council and signed by the Mayor. The plan may be based upon the plans collected and compiled by the Office, and upon the information provided at the hearing(s); provided, however, that the plan is consistent with such federal programs and regulations that are already in effect at that time.

(5) The emergency energy shortage contingency plan may include, but not be limited to:

(A) Recommendations for differentiated curtailment during an emergency energy shortage of energy consumption by energy users on the basis or ability by users and energy distributors to accommodate such curtailments;

(B) A variety of strategies and staged conservation measures of increasing intensity and authority to reduce energy use during a state of emergency declared pursuant to § 1-204.12(a), by reason of an emergency energy shortage, and guidelines and criteria for allocation of energy resources to priority users during such an emergency. The plan shall contain alternative conservation actions and allocation plans to reasonably meet various foreseeable shortage circumstances and to allow a choice of appropriate responses;

(C) Evidence that the plan is consistent with the requirements for emergency energy conservation and allocation laws and regulations of the federal government and the District of Columbia Public Service Commission, and with procedures for implementing the District's responsibility as mandated by any federal programs, laws, orders, rules, or regulations relating to the allocation, conservation, or consumption of energy resources, and all orders, rules, and regulations thereto;

(D) A scheduled program of such investigations and studies by the Office as are necessary to determine if and when emergency energy shortages are likely to affect the District;

(E) Recommendations for administrative and legislative action required to avert emergency energy shortages; and

(F) Recommendations for procedures for fair and equitable review of complaints and requests for special exemptions from emergency conservation measures or emergency allocations.

(6) Upon completion of the draft recommended plan, the Office and the Mayor shall follow the procedures as outlined in subsection (e) of this section, and § 8-171.05 [repealed]: Except, that no public hearings on the plan shall be required other than pursuant to subsection (g)(4) of this section.

(7) The Office may update the emergency energy shortage contingency plan at least every 3 years or whenever such changes are deemed necessary.

(h) *Coordination of energy research and development program.* — The Office, in cooperation and consultation with the institutions of higher education in the District, the United States Department of Energy, and other interested and qualified sources of expertise, may, as part of a comprehensive



energy plan, develop and carry out an energy research and development program designed to encourage implementation of the District policies contained in § 8-171.03.

(i) *Annual report.* — The Director shall make an annual report of the Office's operations to the Mayor and to the Council. Such report may include, but not be limited to:

(1) An overview of city-wide growth and development as they relate to further requirements for energy in the District, including patterns of community development and change, shifts in transportation modes, modifications in building types and designs, and other trends and factors which, as determined by the Office, will significantly affect District energy needs;

(2) A forecast of city-wide end-use sector energy demand and city-wide energy resource supply available for the coming year;

(3) An assessment of growth trends in energy consumption and production and an identification of potential adverse social, economic, or environmental impacts which might be imposed by current trends;

(4) Estimates of energy savings, effect on public budgets and revenues, impact on the District economy, and increase, or decrease, in environmental residuals in the District of plans, programs, and policies of this chapter and federal plans, programs, and policies implemented in the coming year;

(5) Inventory and evaluation of energy research and development programs carried out in the past year or scheduled to be carried out in the coming year;

(6) Recommendations to the Mayor and to the Council for administrative and legislative actions on energy matters; and

(7) A summary review of the Office's activities during the year.

(j) *Action by District agencies and instrumentalities.* —

(1) Within 3 months of the date that monies are appropriated for the Office of Energy, all District agencies and instrumentalities shall do the following:

(A) Review their present statutory authority, administrative rules and regulations, and practices and procedures to determine whether such are consistent with the purposes and policies of this chapter;

(B) Effect or recommend such changes as may be necessary to comply with the purposes and policies of this chapter;

(C) Designate 1 officer or employee from each agency or instrumentality to serve as the official responsible for energy matters within the respective agency or instrumentality; and

(D) Submit a written report to the Office of its findings and actions pursuant to this paragraph.

(2) The Office shall prepare and distribute at the earliest feasible date after March 4, 1981, an index of functions and responsibilities of District agencies and instrumentalities, relating to energy and energy resources, in sufficient detail to guide the public and serve as a basis for further steps as may be necessary to assure full coordination without duplication of the energy-related activities of the agencies and instrumentalities. No later than 180 days after completion of the index, the Office shall recommend to the



Mayor and to the Council, such action as may be necessary to preclude any identified or potential duplication of energy and energy resource related functions and responsibilities of District agencies and instrumentalities.

(k) *Budget and financing.* —

(1) The Director shall prepare a proposed budget for the operation of the Office to be submitted for the consideration of the Mayor and the Council.

(2) The Office shall be operated within the limitation of the appropriations and grants or other funds for which it qualifies, in accordance with approved programs.

(Mar. 4, 1981, D.C. Law 3-132, § 5, 28 DCR 445; Apr. 12, 2000, D.C. Law 13-91, § 125, 47 DCR 520; Mar. 14, 2007, D.C. Law 16-262, § 402, 54, DCR 794.)

**Prior Codifications.** — 2001 Ed., § 2-904. 1981 Ed., § 1-1904.

**Effect of amendments.** — D.C. Law 13-91, in pars. (f)(5) and (g)(6), substituted “§ 1-1905 § 2-905, 2001 Ed.” for “§§ 1-1905 and 1-1906 1981 Ed.”; and in par. (g)(6), substituted “subsection (g)(4) of this section” for “subsection (h)(4) of this section”.

D.C. Law 16-262, in subsec. (g), pars. (1) and (3), substituted “Homeland Security and Emergency Management Agency” for “Office of Emergency Preparedness”.

**Legislative history of Law 3-132.** — For legislative history of D.C. Law 3-132, see Historical and Statutory Notes following § 2-901.

**Legislative history of Law 13-91.** — Law 13-91, the “Technical Amendments Act of 1999,” was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

**Legislative history of Law 16-262.** — Law 16-262, the “Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006,” was introduced in Council and assigned Bill No. 16-242, which was referred to Committee on Judiciary. The Bill was adopted on first and second readings on December 5, 2006, and December 19, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-618 and transmitted to both Houses of Congress for its review. D.C. Law 16-262 became effective on March 14, 2007.

**Transfer of Functions.** — The functions of the Department of General Services were transferred, in part, to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984, and transferred, in

part, to the Department of Administrative Services by Reorganization Plan No. 5 of 1983, effective March 1, 1984.

The functions of the Department of Transportation were transferred to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984.

The Weatherization Assistance Program in the Department of Housing and Community Development was transferred to the D.C. Energy Office under the Department of Public Works by Reorganization Plan No. 3 of 1993, approved January 20, 1993.

**Mayor's Orders.** — Interagency energy task force established: See Mayor's Order 86-61, April 22, 1986.

Pursuant to Mayor's Order 98-198 (46 DCR 240) pub. January 8, 1999, the name of the Office of Emergency Preparedness has been changed to the D.C. Emergency Management Agency.

**Editor's notes.** — Section 149 of Pub. L. 104-194, 110 Stat. 2377 provided that “the Director of the District of Columbia Office of Energy shall, subject to the contract approval provisions of Public Law 104-8—

(A) develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum cost effective energy and water savings;

(B) enter into innovative financing and contractual mechanisms including, but not limited to, utility demand-side management programs and energy savings performance contracts and water conservation performance contracts: Provided, That the terms of such contracts do not exceed twenty-five years; and.

(C) permit and encourage each department or agency and other instrumentality of the District of Columbia to participate in programs conducted by any gas, electric or water utility of the management of electricity or gas demand or for energy or water conservation.”

§ 8-171.05. Review by District Auditor. [Repealed].

Repealed.

(Mar. 4, 1981, D.C. Law 3-132, § 6, 28 DCR 445; Oct. 19, 2000, D.C. Law 13-172, § 2404, 47 DCR 6308.)

**Prior Codifications.** — 2001 Ed., § 2-905. 1981 Ed., § 1-1905.

**Emergency legislation.** — For temporary (90-day) repeal of section, see § 2404 of the Fiscal Year 2001 Budget Support Emergency Act of 2000 (D.C. Act 13-376, July 24, 2000, 47 DCR 6574).

For temporary (90 day) repeal of section, see § 2404 of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

**Legislative history of Law 3-132.** — For legislative history of D.C. Law 3-132, see Historical and Statutory Notes following § 2-901.

**Legislative history of Law 13-172.** — Law 13-172, the “Fiscal Year 2001 Budget Support Act of 2000,” was introduced in Council and assigned Bill No. 13-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 18, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-375 and transmitted to both Houses of Congress for its review. D.C. Law 13-172 became effective on October 19, 2000.

**Mayor’s Orders.** — Interagency energy task force established: See Mayor’s Order 86-61, April 22, 1986.

§ 8-171.06. Citizens Energy Advisory Committee. [Expired].

Expired.

(Mar. 4, 1981, D.C. Law 3-132, § 7, 28 DCR 445; Aug. 2, 1983, D.C. Law 5-24, § 11, 30 DCR 3341; May 19, 1987, D.C. Law 7-4, § 2, 34 DCR 2334; Oct. 9, 1987, D.C. Law 7-33, § 2, 34 DCR 5314; Apr. 30, 1988, D.C. Law 7-104, § 32, 35 DCR 147; Aug. 17, 1991, D.C. Law 9-45, § 2, 38 DCR 4988.)

**Prior Codifications.** — 2001 Ed., § 2-906. 1981 Ed., § 1-1906.

**Editor’s notes.** — Expiration of the Citizens Energy Advisory Committee: Pursuant to subsection (e) of expired § 1-1906 § 2-906, 2001 Ed., the Citizens Energy Advisory Committee

“shall continue in existence for 14 years, at which time, it shall be terminated unless reestablished by the Council of the District of Columbia.” The citizens Energy Advisory Committee is deemed to have expired on March 4, 1995.

§ 8-171.07. Severability.

If any provisions of this chapter, or of any rule, regulation, or order thereunder or the application of such provision to any person or circumstance shall be held invalid, the remainder of this chapter and application of such provisions of this chapter or of such rule, regulation, or order to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

(Mar. 4, 1981, D.C. Law 3-132, § 8, 28 DCR 445.)

**Prior Codifications.** — 2001 Ed., § 2-907. 1981 Ed., § 1-1907.

**Legislative history of Law 3-132.** — For legislative history of D.C. Law 3-132, see Historical and Statutory Notes following § 2-901.

**Editor’s notes.** — Because of the codifica-

tion of D.C. Law 6-173 as subchapter II of Chapter 19 of Title 1 subchapter II of Chapter 9 of Title 2, 2001 Ed., and the designation of the preexisting text as subchapter I, “subchapter” has been substituted for “chapter” throughout the section.



## CHAPTER 2. DRAINAGE OF LOTS.

Sec.	Sec.
8-201. Lots to be drained into public sewers and connected with water mains.	8-205. Definitions; repair, maintenance, and renewal of water service pipes and building sewers; compensation to property owners; false claims for compensation; severability.
8-202. Notice of connection requirement.	
8-203. Failure to make required connections.	
8-204. Nonresident lot owner; notice; failure to make connections; cost of connections.	

### § 8-201. Lots to be drained into public sewers and connected with water mains.

Each original lot or subdivisional lot situated on any street in the District of Columbia where there is a public sewer shall be connected with said sewer in such manner that any and all of the drainage of such lot, whether water or liquid refuse of any kind, except human urine and fecal matter, shall flow into said sewer; and if such original lot or subdivisional lot is situated on any street in said District where there is a public sewer and water main, such original lot or subdivisional lot shall be connected with said sewer and also with said water main in such manner that any and all of the drainage of such lot, whether water or liquid refuse of any kind shall flow into said sewer; provided, that the connections required to be made by this section shall be made under the following conditions:

(1) When there is on any such original lot or subdivisional lot aforesaid any building used or intended to be used as a dwelling, or in which persons are employed or intended to be employed in any manufacture, trade, or business, or any stable, shed, pen, or place where cows, horses, mules, or other animals are kept, then, and in that instance, such original lot or subdivisional lot shall be connected with a public sewer and water main or with a public sewer, as may be required with this section; and

(2) Whenever there is no such building, stable, shed, pen, or place, as aforesaid, on such original lot or subdivisional lot, then such lot shall be required to be connected with a public sewer only when it has been certified by the Director of the Department of Human Services of said District that such connection is necessary to public health.

(May 19, 1896, 29 Stat. 125, ch. 206, § 1; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1.)

**Section references.** — This section is referenced in § 8-202, § 8-203, and § 8-205.

**Prior Codifications.** — 1981 Ed., § 6-401.  
1973 Ed., § 6-401.

**Editor's notes.** — Office of Director of Public Health abolished: See Historical and Statutory Notes following § 7-101.

#### CASE NOTES

##### ANALYSIS

##### Assessments.

##### Due process.

##### Fraudulent representations or concealment.

##### Validity.

##### Assessments.

An abutting owner cannot urge against the validity of a drainage tax assessment for con-



necting her property with a sewer that no showing was made that any nuisance existed on her property, or that the means of drainage already there were unsanitary or insufficient, or that any necessity existed for making the connection. *District of Columbia v. Brooke*, 29 S.Ct. 560, 1909 U.S. LEXIS 1899 (U.S. Dist. Col. 1909).

**Due process.**

Due process of law is not denied an abutting owner of property on which dwellings have been erected by the attempt, in Act May 19, 1896, 29 Stat. 125, c. 206, D.C. Code 1929, T. 20, §§ 1311-1314, creating a drainage system in the District of Columbia, under which she is assessed for the expense of connecting her property with a sewer, to give a controlling evidential effect to the existence of such improvements as dwellings, as indicating the necessity for making such connection. *District of Columbia v. Brooke*, 29 S.Ct. 560, 1909 U.S. LEXIS 1899 (U.S. Dist. Col. 1909).

**Fraudulent representations or concealment.**

Where purchaser asked vendor particularly about wiring and plumbing in house and vendor replied that it was all right but said nothing about fact that plumbing was connected to septic tank rather than to public sewer, vendor's conduct would give purchaser right of action for deceit on part of vendor, when failure to disclose fact was considered in connection with code sections requiring connection to be made with public sewers. D.C. Code 1940, §§ 6-401 to 6-403, 6-701. *Kraft v. Lowe*, 77 A.2d 554, 1950 D.C. App. LEXIS 208 (Cr.App. 1950).

In action by purchasers for vendors' deceit in failing to reveal that plumbing was not con-

nected with public sewer, where there was no proof that value of property purchased was less than amount paid for it judgment for purchasers would be reversed and new trial ordered on sole issue of damages, notwithstanding fact that deceit was established and that there was proof as to amount paid by plaintiffs in connecting plumbing to public sewer. D.C. Code 1940, §§ 6-401 to 6-403, 6-701. *Kraft v. Lowe*, 77 A.2d 554, 1950 D.C. App. LEXIS 208 (Cr.App. 1950).

**Validity.**

Act May 19, 1896, c. 206 (D.C. Code 1929, T. 20, §§ 1311-1314), creating a drainage system, is not unconstitutional. *District of Columbia v. Brooke*, 29 S.Ct. 560, 1909 U.S. LEXIS 1899 (U.S. Dist. Col. 1909).

Distinction between resident and nonresident owners of abutting property in Act May 19, 1896, 29 Stat. 125, c. 206, D.C. Code 1929, T. 20, §§ 1311-1314, creating drainage system for District of Columbia, in that the coercion of the law as to making connections with a sewer is by criminal punishment in the case of residents, whereas, against nonresident owners, district does the work and assesses cost against property, does not invalidate the statute for discrimination, even if Congress cannot enact discriminating legislation. *District of Columbia v. Brooke*, 29 S.Ct. 560, 1909 U.S. LEXIS 1899 (U.S. Dist. Col. 1909).

An abutting owner of property on which dwellings have been erected cannot deny the validity of Act May 19, 1896, 29 Stat. 125, c. 206, D.C. Code 1929, T. 20, §§ 1311-1314, creating a drainage system in the District of Columbia, which affects only owners of unimproved property. *District of Columbia v. Brooke*, 29 S.Ct. 560, 1909 U.S. LEXIS 1899 (U.S. Dist. Col. 1909).

**§ 8-202. Notice of connection requirement.**

It shall be the duty of the Mayor of the District of Columbia to notify the owner or owners of every lot required by § 8-201 to be connected with a public sewer or water main, as the case may be, to so connect such lot, the work to be done in accordance with the regulations governing plumbing and house drainage in said District.

(May 19, 1896, 29 Stat. 125, ch. 206, § 2.)

**Prior Codifications.** — 1981 Ed., § 6-402. 1973 Ed., § 6-402.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and

the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)),

appropriate changes in terminology were made in this section.

### § 8-203. Failure to make required connections.

If the owner or owners of any such lot neglect or refuse to make such connections as are required by § 8-201 within 30 days after the receipt of such notice, such owner or owners shall be deemed guilty of a misdemeanor, and shall, on conviction in the Superior Court of the District of Columbia, be punished by a fine of not less than \$1 nor more than \$5 for each day he, she, or they fail or neglect to make such connections. Civil fines, penalties, and fees may be imposed as alternative sanctions if the owners of any lots neglect or refuse to make the connections required by § 8-201 within 30 days after the receipt of the notice, pursuant to Chapter 18 of Title 2. Adjudication of any infraction shall be pursuant to Chapter 18 of Title 2.

(May 19, 1896, 29 Stat. 126, ch. 206, § 3; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570 Pub. L. 91-358, title I, § 155(a); Oct. 5, 1985, D.C. Law 6-42, § 477, 32 DCR 4450.)

**Prior Codifications.** — 1981 Ed., § 6-403. 1973 Ed., § 6-403.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June

25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Near the middle of the second sentence, "connections" has been substituted for "corrections" to correct an error in D.C. Law 6-42.

### CASE NOTES

#### **In general.**

In action by purchasers for vendors' deceit in failing to reveal that plumbing was not connected with public sewer, where there was no proof that value of property purchased was less than amount paid for it judgment for purchasers would be reversed and new trial ordered on sole issue of damages, notwithstanding fact that deceit was established and that there was proof as to amount paid by plaintiffs in connecting plumbing to public sewer. D.C. Code 1940, §§ 6-401 to 6-403, 6-701. *Kraft v. Lowe*, 77 A.2d 554, 1950 D.C. App. LEXIS 208 (Cr.App. 1950).

Where sewer was available in 1939, but no notice was given by District to connect to sewer until October, 1946, purchasers to whom home was conveyed in 1943 would have no right of action against vendors for breach of contract provision requiring vendors to comply with all notices of violations against or affecting property at date of settlement. D.C. Code 1940, §§ 6-401 to 6-403, 6-701. *Kraft v. Lowe*, 77 A.2d 554, 1950 D.C. App. LEXIS 208 (Cr.App. 1950).

### § 8-204. Nonresident lot owner; notice; failure to make connections; cost of connections.

In case the owner or owners of any such lot be a nonresident or nonresidents of the District of Columbia, or cannot be found therein, then, and in that case, the Mayor of the District of Columbia shall give notice, by publication twice a week for 2 weeks in some daily newspaper published in the City of Washington



to such owner, directing the connection of such lot with such public sewer or with such public sewer and water main, as the case may be; provided, however, that if the residence or place of abode of the said nonresident lot owner be known or can be ascertained on reasonable inquiry, then, and in that case, a copy of the aforesaid notice shall be mailed to said nonresident, addressed to him in his proper name at his said place of residence or abode, with legal postage prepaid; and in case such owner or owners shall fail or neglect to comply with the notice aforesaid within 30 days it shall be the duty of said Mayor to cause such connection to be made, the expense to be paid out of the emergency fund; such expense, with necessary expense of advertisement, shall be assessed as a tax against such lot, which tax shall be carried on the regular tax roll of the District of Columbia, and shall be collected in the manner provided for the collection of other taxes.

(May 19, 1896, 29 Stat. 126, ch. 206, § 4.)

**Prior Codifications.** — 1981 Ed., § 6-404. 1973 Ed., § 6-404.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CASE NOTES

### ANALYSIS

Assessments.  
Due process.  
Validity.

### Assessments.

An abutting owner cannot urge against the validity of a drainage tax assessment for connecting her property with a sewer that no showing was made that any nuisance existed on her property, or that the means of drainage already there were unsanitary or insufficient, or that any necessity existed for making the connection. *District of Columbia v. Brooke*, 29 S.Ct. 560, 1909 U.S. LEXIS 1899 (U.S. Dist. Col. 1909).

### Due process.

Due process of law is not denied an abutting owner of property on which dwellings have been erected by the attempt, in Act May 19, 1896, 29 Stat. 125, c. 206, D.C. Code 1929, T. 20, §§ 1311-1314, creating a drainage system in the District of Columbia, under which she is assessed for the expense of connecting her property with a sewer, to give a controlling

evidential effect to the existence of such improvements as dwellings, as indicating the necessity for making such connection. *District of Columbia v. Brooke*, 29 S.Ct. 560, 1909 U.S. LEXIS 1899 (U.S. Dist. Col. 1909).

### Validity.

Act May 19, 1896, c. 206 (D.C. Code 1929, T. 20, §§ 1311-1314), creating a drainage system, is not unconstitutional. *District of Columbia v. Brooke*, 29 S.Ct. 560, 1909 U.S. LEXIS 1899 (U.S. Dist. Col. 1909).

Distinction between resident and nonresident owners of abutting property in Act May 19, 1896, 29 Stat. 125, c. 206, D.C. Code 1929, T. 20, §§ 1311-1314, creating drainage system for District of Columbia, in that the coercion of the law as to making connections with a sewer is by criminal punishment in the case of residents, whereas, against nonresident owners, district does the work and assesses cost against property, does not invalidate the statute for discrimination, even if Congress cannot enact discriminating legislation. *District of Columbia v. Brooke*, 29 S.Ct. 560, 1909 U.S. LEXIS 1899 (U.S. Dist. Col. 1909).



An abutting owner of property on which dwellings have been erected cannot deny the validity of Act May 19, 1896, 29 Stat. 125, c. 206, D.C. Code 1929, T. 20, §§ 1311-1314, creating a drainage system in the District of Co-

lumbia, which affects only owners of unimproved property. *District of Columbia v. Brooke*, 29 S.Ct. 560, 1909 U.S. LEXIS 1899 (U.S. Dist. Col. 1909).

**§ 8-205. Definitions; repair, maintenance, and renewal of water service pipes and building sewers; compensation to property owners; false claims for compensation; severability.**

(a) For the purpose of this section, certain words and terms are defined as follows:

(1) "Parking" means that area of public space which lies between the property line and the edge of the actual or planned sidewalk which is nearer to such property line, as such property line and sidewalk are shown on the records of the Surveyor of the District of Columbia.

(2) "Property" means real property.

(3) "Property line" means the line beyond which a private property owner has no legal or vested property rights in any fronting or abutting public space or street; the line of demarcation between privately owned property and any public space or street as may be shown on the records of the Surveyor of the District of Columbia.

(4) "Public space" means all the publicly owned property between lines on a street, as such property lines are shown on the records of the Surveyor of the District of Columbia, and includes any roadway, tree space, sidewalk, or parking between such property lines.

(5) "Street" means a public highway as shown on the records of the Surveyor of the District of Columbia whether designated as a street, alley, avenue, freeway, road, drive, lane, place, boulevard, parkway, circle, or by some other term.

(b) The District of Columbia Water and Sewer Authority of the District of Columbia is authorized to repair and maintain and, where necessary, to renew all water service pipes and building sewers from the water main or the public sewer to the property line of each lot in the District of Columbia required to be so connected by § 8-201 at the costs of such owner or owners and to perform all such repairs, as are necessary, to maintain or improve any roadway, alley, minor street, highway or other public space above such repaired or renewed water service pipes or building sewers. The District of Columbia Water and Sewer Authority, where he deems such action necessary, may also perform maintenance or repair work on private property, in which case, the cost, including overhead expense, shall be paid by the property owner. The cost of any repair or maintenance work on water service pipes or building sewers beyond the property line away from the house or structure, made necessary by the negligence or through the action of a property owner or tenant as reasonably determined by the District of Columbia Water and Sewer Authority, shall be charged to the property owner.

(c) The District of Columbia Water and Sewer Authority is further authorized and directed to compensate property owners for any and all expenses

incurred at the direction of the District of Columbia for the direct repair of water service pipes or building sewers within the past 3 years from March 29, 1977; provided, that such repairs at the time of their performances have met the requirements of subsection (b) of this section. Compensation shall be in the form of payment or the removal of a lien or assessment against such property by the District of Columbia only to owners who establish under the requirements of subsection (e) of this section proof of actual payment of repairs under a permit issued by the District of Columbia. All rights to compensation under the terms of this subsection shall terminate 2 years from March 29, 1977.

(d) All prior year compensation payments authorized by subsection (c) of this section and all work required to be done in the repair, maintenance, or renewal of water service pipes and building sewer as authorized under subsection (b) of this section, including surface repair works, shall be paid from the Water and Sewer Authority Enterprise Fund established by § 34-2202.07.

(e) Before compensation is granted, the District of Columbia Water and Sewer Authority shall determine whether the repair, made under a permit issued by the District of Columbia, would have been authorized under subsection (b) of this section, noting such other pertinent findings of fact as he deems necessary. If the District of Columbia Water and Sewer Authority determines that the repair work would have been eligible under subsection (b) of this section had it been in effect at the time of repair, he shall compensate any person, who was the property owner at the time the repairs were made, for the cost of such repairs, provided such owner can establish proof of payment for the cost of the repairs to the reasonable satisfaction of the District of Columbia Water and Sewer Authority up to the full value thereof for each separate occurrence.

(f) Any person who by means of false statement, or impersonation, or by other fraudulent device obtains or attempts to obtain or any person who knowingly aids or abets such person in obtaining or attempting to obtain: (1) Any award or payment of compensation under the provisions of this section to which he is not entitled; or (2) a larger amount or greater relief in compensation than that to which he is entitled; shall be guilty of a misdemeanor and shall be sentenced to pay a fine of not more than \$500 or imprisoned not to exceed 1 year, or both. Prosecutions under the provisions of this subsection shall be in the name of the District of Columbia by the Office of the Corporation Counsel.

(g) The District of Columbia Water and Sewer Authority is further authorized to prescribe rules and regulations governing the maintenance and repair of such water service pipes and building sewers by the District of Columbia and the compensation of property owners by the District of Columbia for eligible prior year repairs of water service pipes, building sewers and the roadway above such water service pipes and sewers.

(h) If any section, subsection, or provision of this chapter is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the remaining sections, subsections, or provisions of this chapter.

(May 19, 1896, 29 Stat. 126, ch. 206, § 5; Mar. 29, 1977, D.C. Law 1-98, § 2, 23 DCR 9532b; Oct. 19, 2000, D.C. Law 13-172, § 1502.)

**Prior Codifications.** — 1981 Ed., § 6-405. 1973 Ed., § 6-405.

**Effect of amendments.** — D.C. Law 13-172, in subsecs. (b), (c), (e), and (g), substituted “the District of Columbia Water and Sewer Authority” for “the Mayor”, and rewrote subsec. (d), which previously read:

“(d) All prior year compensation payments authorized by subsection (c) of this section and all work required to be done in the repair, maintenance or renewal of water service pipes and building sewers as authorized under subsection (b) of this section including surface repair work not within the right-of-way of streets or alleys shall be paid for from water and sewer rate revenue appropriated to the District of Columbia, except that all surface repair work to be done upon public space within the roadway, tree space or actual sidewalk right-of-way of any street shall be paid for out of highway revenues appropriated to the District of Columbia.”

**Emergency legislation.** — For temporary (90-day) amendment of section, see § 1502 of the Fiscal Year 2001 Budget Support Emergency Act of 2000 (D.C. Act 13-376, July 24, 2000, 47 DCR 6574).

For temporary (90 day) amendment of section, see § 1502 of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

**Legislative history of Law 1-98.** — Law 1-98, the “Water and Sewer Repair and Compensation Act of 1976,” was introduced in Council and assigned Bill No. 1-319, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on October 12, 1976 and November 22, 1976, respectively. Signed by the Mayor on December 30, 1976, it was assigned Act No. 1-187 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 13-172.** — Law 13-172, the “Fiscal Year 2001 Budget Support Act of 2000,” was introduced in Council and assigned Bill No. 13-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 18, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-375 and transmitted to both Houses of Congress for its review. D.C. Law 13-172 became effective on October 19, 2000.

#### CASE NOTES

##### **In general.**

Where water line was in imminent danger of being crushed, repair to line would be necessary should movement of line continue, and proper maintenance of water line included attention to undue substances of that line, city could not escape liability for damage to property owner’s water service line on grounds that

no repairs needed to be done to water line itself in that problems suffered by owner were due to soils in which line lay. D.C. Code 1981, § 6-405(b). *Washington Metropolitan Area Transit Authority v. L’Enfant Plaza Properties, Inc.*, 448 A.2d 864, 1982 D.C. App. LEXIS 389 (1982).



CHAPTER 2A. LEAD-HAZARD PREVENTION AND ELIMINATION.

Sec.	Sec.
8-231.01. Definitions.	ducting lead-based paint activities.
8-231.02. Prohibitions.	8-231.11. Work practice standards.
8-231.03. Risk reduction of lead-based paint hazards.	8-231.12. Accreditation of training providers.
8-231.04. Disclosure and risk reduction requirements.	8-231.13. Record keeping and disclosure requirements.
8-231.05. Right of entry, inspections, analyses, corrective actions, and notices.	8-231.14. Denial, suspension, or revocation.
8-231.06. Tenant provision of access to dwelling unit.	8-231.15. Serving of notice; civil penalties.
8-231.07. Prohibition against retaliation.	8-231.16. Criminal penalties.
8-231.08. Property owner's concurrent obligations.	8-231.17. No private right of action against the District.
8-231.09. [Repealed].	8-231.18. Rulemaking.
8-231.10. Certification requirements for individuals and business entities con-	8-231.18a. Enforcement of housing code regulations.
	8-231.19. Common law unaffected.
	8-231.20. Authorization to seek delegation.

§ 8-231.01. Definitions.

For the purposes of this chapter, the term:

(1) "Abatement" means any measure or a set of measures, except interim controls, that eliminates lead-based paint hazards by either the removal of paint and dust, the enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or covering of soil, and all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

(2) "Accredited training provider" means a training provider that has been approved by the Mayor to provide training for individuals who conduct lead-based paint activities.

(3) "Business entity" means a partnership, firm, company, association, corporation, sole proprietorship, government, quasi-government entity, non-profit organization, or other business concern.

(4) "Child-occupied facility" means a building, or portion of a building, constructed prior to 1978, which as part of its function receives children under the age of 6 on a regular basis, and is required to obtain a certificate of occupancy as a precondition to performing that function. The term "child-occupied facility" may include a preschool, and kindergarten classroom, and child development facility licensed under subchapter II of Chapter 20 of Title 7 [§ 7-2031 et seq.]. The location of a child-occupied facility as part of a larger structure does not make the entire structure a child-occupied facility. Only the portion of the facility occupied or regularly visited by children under age 6 shall be considered the child-occupied facility.

(5) "Clearance examination" is an evaluation of a property to determine whether the property is free of any deteriorated lead-based paint and underlying condition, or any lead-based paint hazard, underlying condition, lead-contaminated dust, and lead-contaminated soil hazards, that is conducted by a certified risk assessor, a lead-based paint inspector, or in accordance with limitations specified by statute or by rule, a dust sampling technician.

(6) "Clearance report" means a report issued by a risk assessor, a lead-based paint inspector, or a dust sampling technician that finds that the

area tested has passed a clearance examination, and that specifies the steps taken to ensure the absence of lead-based paint hazards, including confirmation that any encapsulation performed as part of a lead hazard abatement strategy was performed in accordance with the manufacturer's specifications.

(7) "Containment" means a system, process, or barrier used to contain lead-based paint hazards inside a work area.

(8) "Day" means a calendar day.

(9) "Deteriorated paint" means paint that is cracking, flaking, chipping, peeling, chalking, not intact, or otherwise separating from the substrate of a building component, except that pinholes and hairline fractures attributable to the settling of a building shall not be considered deteriorated paint.

(9A) "Dust action level" means the concentration of lead that constitutes a lead-based paint hazard for dust and requires lead-based paint hazard elimination.

(10) "Dust sampling technician" means an individual who:

(A) Has successfully completed an accredited training program;

(B) Has been certified to perform a visual inspection of a property to confirm that no deteriorated paint is visible at the property, and to sample for the presence of lead in dust for the purposes of certain clearance testing and lead dust hazard identification; and

(C) Provides a report explaining the results of the visual inspection and dust sampling.

(11) "Dwelling unit" means a room or group of rooms that form a single independent habitable unit for permanent occupation by one or more individuals, that has living facilities with permanent provisions for living, sleeping, eating, and sanitation. The term "dwelling unit" does not include:

(A) A unit within a hotel, motel, or seasonal or transient facility, unless such unit is or will be occupied by a person at risk for a period exceeding 30 days;

(B) An area within the dwelling unit that is secured and accessible only to authorized personnel;

(C) Housing for the elderly, or a dwelling unit designated exclusively for persons with disabilities, unless a person at risk resides or is expected to reside in the dwelling unit or visit the dwelling unit on a regular basis; or

(D) An unoccupied dwelling unit that is to be demolished; provided, that the dwelling unit will remain unoccupied until demolition.

(12) "EBL child" means a child with an elevated blood lead level.

(13) "Elevated blood lead level" means the concentration of lead in a sample of whole blood equal to or greater than 10 micrograms of lead per deciliter (µg/dL) of blood, or such more stringent standard as may be established by the U.S. Centers for Disease Control and Prevention as the appropriate level of concern, or adopted by the Mayor by rule.

(14) "Encapsulation" means the application of a covering or coating that acts as a barrier between the lead-based paint and the environment, and that relies for its durability on adhesion between the encapsulant and the painted surface and on the integrity of the existing bonds between paint layers and between the paint and the substrate.



(15) "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate to act as a barrier between lead-based paint and the environment.

(16) "EPA" means the federal Environmental Protection Agency.

(17) "Exterior surfaces" means:

(A) All surfaces that are attached to the outside of a property;

(B) All structures that are appurtenances to a property;

(C) Fences that are a part of the property; and

(D) For a property within a multi-unit dwelling, all painted surfaces in stairways, hallways, entrance areas, recreation areas, laundry areas, and garages that are common to individual dwelling units or located on the property.

(18) "HUD" means the federal Department of Housing and Urban Development.

(19) "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

(20) "Lead-based paint" means any paint or other surface coating containing lead or lead in its compounds in any quantity exceeding 0.5% of the total weight of the material or more than one milligram per square centimeter (1.0 mg/cm<sup>2</sup>), or such more stringent standards as may be specified in federal law or regulations promulgated by EPA or HUD, which shall be adopted by the Mayor by rule.

(21) "Lead-based paint activities" means the identification, risk assessment, inspection, abatement, use of interim controls, or elimination of lead-based paint, lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil, and all planning, project designing, and supervision associated with any of the these [sic] activities.

(22) "Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, deteriorated lead-based paint or presumed lead-based paint, or lead-based paint or presumed lead-based paint that is disturbed without containment.

(23) "Lead-based paint inspector" or "inspector" means an individual who has been trained by an accredited training provider and certified to conduct lead inspections. For the purpose of clearance testing, a certified lead-based paint inspector also samples for the presence of lead in dust and in bare soil.

(24) "Lead-contaminated dust" means surface dust based on a wipe sample that contains a mass per area concentration of lead equal to or exceeding:

(A) For dust action levels or for the purpose of clearance examination:

(i) 40 micrograms per square foot ("µg/ft<sup>2</sup>") on floors; or

(ii) 250 µg/ft<sup>2</sup> on interior windowsills;

(B) For the purpose of clearance examination:

(i) 400 µg/ft<sup>2</sup> on window troughs; or



- (ii) 800  $\mu\text{g}/\text{ft}^2$  on concrete or other rough exterior surfaces; or
- (C) Such more stringent standards as may be:

- (i)(I) Specified in federal law; or

- (II) Specified in regulations promulgated by the United States Environmental Protection Agency or the United States Department of Housing and Urban Development; or

- (ii) Adopted by the Mayor by rule.

(25) "Lead-contaminated soil" means bare soil on real property that contains lead in excess of 400 ppm, or such other more stringent level specified in federal law or regulations promulgated by EPA or HUD, and adopted by the Mayor by rule.

(26) "Lead-disclosure form" means the form developed by the Mayor for a property owner to disclose an owner's knowledge of any lead-based paint or of any lead-based paint hazards, and information about any pending actions ordered by the Mayor pursuant to this law, to tenants, purchasers, or prospective tenants or purchasers.

(27) "Lead-free property" means a property that contains no lead-contaminated soil, and the interior and exterior surfaces do not contain any lead-based paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter ( $1.0 \text{ mg}/\text{cm}^2$ ).

(28) "Lead-free unit" means a unit for which the interior and exterior surfaces appurtenant to the unit do not contain any lead-based paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter ( $1.0 \text{ mg}/\text{cm}^2$ ), and for which the approaches thereto remain lead-safe. The Mayor, by rule, may establish a method to ensure that approaches to lead-free units remain lead-safe.

(29) "Lead-safe work practices" means a prescribed set of activities that, taken together, ensure that any work that disturbs a painted surface on a structure constructed prior to 1978 generates a minimum of dust and debris, that any dust or debris generated is contained within the immediate work area, that access to the work area by non-workers is effectively limited, that the work area is thoroughly cleaned so as to remove all lead-contaminated dust and debris, and that all such dust and debris is disposed of in an appropriate manner, all in accordance with the methods and standards established by the Mayor by rule consistent with applicable federal requirements, as they may be amended.

(30) "Owner" means a person, firm, partnership, corporation, guardian, conservator, receiver, trustee, executor, legal representative, registered agent, or the federal government, who alone or jointly and severally with others, owns, holds, or controls the whole or any part of the freehold or leasehold interest to any property, with or without actual possession.

(31) "Person at risk" means a child under age 6 or a pregnant woman.

(32) "Presumed lead-based paint" means paint or other surface coating affixed to a component in or on a dwelling unit or child-occupied facility, constructed prior to 1978.

(33) "Relocation expenses" means reasonable expenses directly related to relocation to temporary replacement housing that complies with the requirements of this chapter, including:

(A) Moving and hauling expenses;  
 (B) Payment of a security deposit;  
 (C) The cost of replacement housing; provided, that the tenant continues to pay the rent on the dwelling unit from which the tenant has been relocated; and

(D) Installation and connection of utilities and appliances.

(34) "Renovation" means the modification of any existing structure or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement. The term "renovation" includes the removal, modification, or repair of painted surfaces or painted components, the removal of building components, weatherization projects, and interim controls that disturb painted surfaces.

(35) "Renovator" means an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or by the District.

(36) "Risk assessment" means an on-site investigation to determine and report the existence, nature, severity, and location of conditions conducive to lead poisoning, including:

(A) The gathering of information regarding the age and history of the housing and occupancy by persons at risk;

(B) A visual inspection of the property;

(C) Dust wipe sampling, soil sampling, and paint testing, as appropriate;

(D) Other activity as may be appropriate;

(E) Provision of a report explaining the results of the investigation; and

(F) Any additional requirements as determined by the Mayor.

(37) "Risk assessor" means an individual who has been trained by an accredited training program and certified to conduct risk assessments.

(38) "Underlying condition" means the source of water intrusion or other problem that is causing paint to deteriorate which may be damaging the substrate of a painted surface.

(Mar. 31, 2009, D.C. Law 17-381, § 2, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(a), 58 DCR 717; Sept. 26, 2012, D.C. Law 19-171, § 60(a), 59 DCR 6190.)

**Effect of amendments.** — D.C. Law 18-348, in par. (1), substituted "a set of measures, except interim controls, that eliminates" for "set of measures that eliminate"; in pars. (4), (29), and (32), substituted "1978," for "March 1, 1978,"; added par. (9A); in par. (13), substituted "or adopted by the Mayor" for "and adopted by the Mayor"; in par. (20), substituted "which shall be adopted" for "and adopted"; rewrote par. (24); in par. (26), substituted "lead-based paint hazards" for "lead hazards" and substituted "to tenants, purchasers, or prospective tenants or purchasers" for "to prospective rental tenants".

The 2012 amendment by D.C. Law 19-171 deleted the comma following "1978" in (29).

**Legislative history of Law 17-381.** — Law 17-381, the "Lead-Hazard Prevention and Elimination Act of 2008", was introduced in Council and assigned Bill No. 17-936 which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 29, 2009, it was assigned Act No. 17-722 and transmitted to both Houses of Congress for its review. D.C. Law 17-381 became effective on March 31, 2009.

**Legislative history of Law 18-348.** — Law 18-348, the "Lead Hazard Prevention and Elimination Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-64,



which was referred to the Committee Government Operations and the Environment. The Bill was adopted on first and second readings on November 23, 2010, and December 7, 2010, respectively. Signed by the Mayor on January 19, 2011, it was assigned Act No. 18-697 and transmitted to both Houses of Congress for its review. D.C. Law 18-348 became effective on March 31, 2011.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned

Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

**Delegation of Authority.** — Delegation of Authority—Lead-Hazard Prevention and Elimination Act of 2008, see Mayor’s Order 2009-113, June 18, 2009 (56 DCR 6861).

## § 8-231.02. Prohibitions.

(a) All dwelling units, common areas of multifamily properties, and child-occupied facilities constructed prior to 1978 shall be maintained free of lead-based paint hazards.

(b) No person shall apply a lead-based paint or glaze to any surface, including the interior and exterior surfaces, of any residential, public, or commercial building, bridge, or other structure or superstructure, or on any paved surface.

(c) Notwithstanding any other provision of law, the District government may deny any license, registration, or permit relating to the use or occupancy of a child-occupied facility or dwelling unit to an owner of that property if the owner is in violation of this chapter.

(Mar. 31, 2009, D.C. Law 17-381, § 3, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(b), 58 DCR 717; Sept. 26, 2012, D.C. Law 19-171, § 60(b), 59 DCR 6190.)

**Effect of amendments.** — D.C. Law 18-348, in subsec. (a), deleted “March 1,” following “prior to”.

The 2012 amendment by D.C. Law 19-171 deleted the comma following “1978” in (a).

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

**Legislative history of Law 18-348.** — For history of Law 18-348, see notes under § 8-231.01.

**Legislative history of Law 19-171.** — See note to § 8-231.01.

## § 8-231.03. Risk reduction of lead-based paint hazards.

(a) Whenever a child under age 6 with an elevated blood lead level resides in, or regularly visits a dwelling unit or child-occupied facility in the District, or upon reasonable belief that any other property located in the District may have contributed to a child’s lead exposure, the Mayor shall conduct a risk assessment of the appropriate properties, and the owner, occupant or owner’s agent shall cooperate with and shall not impede the Mayor’s conduct of such assessment.

(b) Upon reasonable belief, which may be based upon a request by a tenant or may be based on other information, that there is risk of a lead-based paint hazard in a dwelling unit, accessible common area, or child-occupied facility constructed before 1978, the Mayor shall take action, which may include a risk assessment, clearance examination, or visual examination of the dwelling unit,



accessible common area, or child-occupied facility, and provide a report to the owner and the tenant.

(c) Whenever action taken by the Mayor pursuant to subsection (a) or (b) of this section identifies lead-based paint hazards, the Mayor shall determine the actions necessary to eliminate the lead-based paint hazards at the property, including abatement or interim controls, and may order the property owner to perform any action considered necessary by the Mayor to protect the health and safety of the occupants of the property, including relocation in accordance with subsection (d)(1)(D) of this section.

(d)(1) Upon receipt of an order from the Mayor described in subsection (c) of this section, the owner of the property shall:

(A) Perform the measures required by the Mayor to eliminate any lead-based paint hazards and underlying conditions;

(B) Obtain a permit from the Mayor, if the elimination of lead-based paint hazards and underlying conditions employs abatement;

(C) Ensure that any individual working to eliminate identified or presumed lead hazards:

(i) Abides by the work practice standards of § 8-231.11; and

(ii) Is trained in lead-safe work practices.

(D) Make temporary comparable alternative arrangements for the relocation of any person at risk who is a tenant residing at the property, as determined by the Mayor, in accordance with paragraph (2) of this subsection; and

(E) Reimburse the Mayor for the costs associated with conducting the risk assessment.

(2)(A) The owner shall pay all reasonable temporary relocation expenses that may be required until the dwelling unit has passed a clearance examination and a reasonable amount of time has passed to allow the tenant to return to the dwelling unit, unless a risk assessment report issued by the Mayor states that temporary tenant relocation is not necessary.

(B) The Mayor shall provide a tenant with a copy of any order by the Mayor regarding temporary relocation within 5 days of issue. Before any relocation of a tenant, the owner shall provide the tenant with at least 14 days of written notice, unless a shorter time period is ordered by the Mayor or agreed to by the owner and the tenant. The owner shall make all reasonable efforts to provide to the tenant as early as possible before the commencement of the proposed relocation the contact information and address of the temporary unit and a statement that the tenant has the a right to return to the unit at the conclusion of work to eliminate any lead-based paint hazards and underlying conditions, and under the same terms.

(C) The owner shall make all reasonable efforts to minimize the duration of any temporary relocation, and shall determine whether there are any appropriate temporary relocation units within the same housing accommodation.

(D) The owner shall make all reasonable efforts to ensure that the household is relocated to a dwelling unit that is in the same school district or ward, near public transportation, as appropriate.

(E) The tenant has a right to return to the unit under the same terms at the conclusion of the work to eliminate lead-based paint hazards.

(F) In lieu of relocation to a dwelling unit identified by the owner, the tenant may agree to make alternative arrangements for temporary relocation.

(3) The owner shall comply with requirements of this subsection within 30 days of receipt of a written order from the Mayor, unless otherwise directed on the notice. The 30-day time period may be extended by the Mayor, in increments of a maximum of 30 days, in response to a timely written request for extension from the owner or tenant, in such manner as required by the Mayor by rule; provided, that the Mayor shall extend the 30-day time period only if the owner has provided a good-faith basis for the request.

(4) Upon completion of the work ordered by the Mayor in subsection (c) of this section, the owner shall submit to the Mayor and any tenant a clearance report that has been completed by a risk assessor. If the elimination of lead-based paint hazards and underlying conditions employs interim controls, the Mayor may require that the owner submit to the Mayor a clearance report periodically, as determined by the Mayor, following the date of the initial clearance report.

(e) Nothing in this section shall be construed to interfere with tenants' rights under other District law. If the owner intends to substantially rehabilitate, demolish, or discontinue any housing accommodation to comply with the requirements of this chapter, the procedures set forth in §§ 42-3505.01 and 42-3507.01 shall apply.

(f) Whenever presumed lead-based paint is identified in an uncontained and non-intact condition, the Mayor shall be authorized to issue a Notice of Violation. A Notice of Violation shall include an order to repair non-intact presumed lead-based paint and its underlying cause using lead-safe work practices, and shall require production of a clearance report. Presumed lead-based paint may be rebutted by production of a lead-based paint inspection report from an inspector or risk assessor, affirming that such paint is not lead-based.

(Mar. 31, 2009, D.C. Law 17-381, § 4, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(c), 58 DCR 717; Sept. 26, 2012, D.C. Law 19-171, § 61(a), 59 DCR 6190.)

**Section references.** — This section is referenced in § 8-231.10.

**Effect of amendments.** — D.C. Law 18-348, in subsec. (b), substituted “shall take” for “shall, in his or her discretion” and substituted “1978,” for “March 1, 1978,”; in subsec. (c), substituted “and may order the property owner to perform any action considered necessary by the Mayor to protect the health and safety of the occupants of the property, including relocation in accordance with subsection (d)(1)(D) of this section” for “and order the property owner to perform those measures required to eliminate the lead-based paint hazards and underlying conditions, and any other action consid-

ered necessary by the Mayor to protect the health and safety of the occupants of the property”; and, in subsec. (d)(2)(A), substituted “examination and a reasonable amount of time has passed to allow the tenant to return to the dwelling unit” for “examination”.

The 2012 amendment by D.C. Law 19-171 made a technical correction to D.C. Law 18-348 which did not affect this section as codified.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

**Legislative history of Law 18-348.** — For history of Law 18-348, see notes under § 8-231.01.



**Legislative history of Law 19-171.** — See note to § 8-231.01.

**§ 8-231.04. Disclosure and risk reduction requirements.**

(a)(1) The owner of a dwelling unit constructed before 1978 shall disclose to the purchaser or tenant of the dwelling unit information reasonably known to the owner about the presence of any of the following conditions in the unit:

- (A) Lead-based paint;
- (B) Lead-based paint hazards; and
- (C) Pending actions ordered by the Mayor pursuant to this chapter.

(2) The disclosures shall be provided on the lead disclosure form provided by the Mayor.

(3) The disclosures shall be provided before the purchaser or tenant is obligated under any contract to purchase or lease the dwelling unit.

(b) The owner of a dwelling unit constructed before 1978, which unit will be occupied or regularly visited by a person at risk, shall provide to the tenant an accurately and fully completed lead disclosure form and a clearance report issued within the previous 12 months. The disclosures required by this subsection shall be disclosed before the tenant is obligated under any contract to lease the dwelling unit.

(c) If a tenant of a dwelling unit constructed before 1978, in which unit a person at risk resides or which unit a person at risk regularly visits, notifies the owner of the property in writing that a person at risk resides in or regularly visits the dwelling unit, the owner of the dwelling unit shall provide to the tenant within 30 days a clearance report issued within the previous 12 months.

(d) Instead of providing the disclosure form and clearance report required by this section, an owner may provide:

(1) A report from a risk assessor or inspector certifying that the dwelling unit is a lead-free unit; provided, that for the purposes of this subsection, the term “lead-free unit” shall mean the definition of lead-free unit in effect at the time of unit certification; or

(2) Three clearance reports issued at least 12 months apart and within the previous 7 years; provided, that the property was not, and is not, subject to any housing code violations that occurred during the past 5 years or any that are outstanding.

(e) The owner of a dwelling unit shall provide notice to its tenants of their rights under this chapter on a form provided by the Mayor whenever the tenant executes or renews a lease for the unit and whenever the owner provides notice of a rent increase.

(f) If the owner of a dwelling unit learns of the presence of lead-based paint in a dwelling unit, the owner shall:

(1) Notify the tenant of the presence of lead-based paint within 10 days after discovering its presence; and

(2) Provide the tenant with a Lead Warning Statement described in 40 C.F.R. § 745.113 and the lead hazard information pamphlet described in section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, approved October 28, 1992 (106 Stat. 3910; 42 U.S.C. § 4852d); pro-



vided, that the Lead Warning Statement and lead hazard information pamphlet need not be provided if they have been provided to the tenant within the prior 12 months.

(g) Twelve months after the effective date of rules implementing this chapter, the Mayor shall submit a report on the status of the implementation of this section. The report shall include:

(1) A statement on the capacity, to date, of both the private and public sector to carry out the provisions of this section in all units in buildings built before 1950; and

(2) An analysis of other factors which may impact expanding compliance to all units in buildings built before 1950, such as existing federal requirements, cost, and liability.

(h)(1) Within 90 days after March 31, 2011, the Mayor shall:

(A) Provide the lead disclosure form to be used as the basis for the lead disclosure statement required by subsections (a) and (b) of this section; and

(B) Petition for approval from the EPA certifying that the District's form meets the federal disclosure standards.

(2) The form issued by the Mayor as required by paragraph (1)(A) of this subsection shall include all elements required by 24 C.F.R. §§ 35.90 and 35.92 and 40 C.F.R. § 745.107, promulgated by Lead; Requirements for Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards in Housing, Final Rule, including the Lead Warning Statement, to meet the Federal standard for use of alternative disclosure forms.

(Mar. 31, 2009, D.C. Law 17-381, § 5, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(d), 58 DCR 717.)

**Effect of amendments.** — D.C. Law 18-348, rewrote the section.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

**Legislative history of Law 18-348.** — For history of Law 18-348, see notes under § 8-231.01.

## **§ 8-231.05. Right of entry, inspections, analyses, corrective actions, and notices.**

(a) Upon the presentation of appropriate credentials to the owner, agent in charge, or tenant, the Mayor shall have the right, subject to subsection (f) of this section, to enter any property or inspect any activity reasonably believed to be subject to this chapter. Upon reasonable belief of imminent threat to the health and safety of the occupants of the property, the Mayor shall have the right of entry and inspection without notice. The right of entry and inspection shall be for the following purposes:

(1) To conduct a risk assessment or inspection;

(2) To collect dust, paint chips, soil or other environmental samples and submit them to a laboratory for analysis;

(3) To inspect or copy any reports from certified personnel that the owner is required to retain under this chapter;

(4) To inspect any interior or exterior surfaces;

(5) To otherwise verify compliance with this chapter or rules implementing the chapter; or

(6) For any reason related to ensuring the safety of occupants after detection of an elevated blood lead level in the occupants of, or persons who regularly visit, the property.

(b) If the Mayor has reason to believe that either there has been a violation of this chapter or of the rules issued pursuant to this chapter, the Mayor may:

(1) Issue a cease and desist order, or any other order necessary to protect the public health or welfare and the environment, which shall take effect upon issuance;

(2) Impose fines and penalties in accordance with §§ 8-231.15 and 8-231.16; and

(3) Request the Attorney General for the District of Columbia to commence appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief.

(c) If the Mayor is denied access to conduct a risk assessment in accordance with this chapter, the Mayor may apply to the Superior Court of the District of Columbia for a search warrant. An owner's denial of access to conduct an inspection in accordance with this section shall constitute a violation of this section, and the owner shall be subject to the civil and administrative penalties imposed by § 8-231.15 and the criminal penalties imposed by § 8-231.16.

(d) Any notice required by this chapter, or as the Mayor may prescribe by regulation, may be served upon an owner of the dwelling or agent of the owner in the same manner as a summons in a civil action, or by registered or certified mail to his or her last known address or place of residence.

(e) If any owner, individual, or business entity fails to follow any order by the Mayor, the Mayor may take the action ordered, the cost of which shall be borne by the owner, individual, or business entity and shall be a judgment against the owner, individual, or business entity, and a continuing and perpetual lien in favor of the District upon all property owned by the owner, individual, or business entity, whether real or personal. The lien shall not be valid against any bona fide purchaser, or holder of a security interest, mechanic's lien, or other creditor interest in the property, until notice of the lien is filed with the Recorder of Deeds. The lien shall be satisfied by payment of the amount of the lien to the District Treasurer.

(f) No entry or inspection of any residential premises shall be made without the permission of the occupant of the premises unless a warrant is obtained from the Superior Court of the District of Columbia pursuant to § 11-941, authorizing entry and inspection of the premises for the purpose of determining compliance with provisions of this chapter.

(Mar. 31, 2009, D.C. Law 17-381, § 6, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(e), 58 DCR 717.)

**Effect of amendments.** — D.C. Law 18-348, in subsec. (a), substituted "subsection (f) of this section" for "14 DCMR § 707.18"; in subsec. (b)(1), substituted "order, or any other order necessary to protect the public health or welfare and the environment," for "order"; and

added subsec. (f).

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

**Legislative history of Law 18-348.** — For history of Law 18-348, see notes under § 8-231.01.

## § 8-231.06. Tenant provision of access to dwelling unit.

(a) A tenant shall allow access to his or her dwelling unit, at reasonable times, to the unit owner or the owner's employee or representative to facilitate any work or inspection required under this chapter following the provision of written notice by the owner at least 48 hours prior to the work or inspection; provided, that entry or inspection of any residential premises shall not be made without the permission of the occupant of the premises unless a warrant is obtained first from the Superior Court of the District of Columbia pursuant to § 11-941.

(b) Notice required by subsection (a) of this section shall include:

(1) A description of the general nature and locations of the planned work or inspection by the owner or his employee or representative;

(2) Related requirements for containment, occupant protection, and relocation;

(3) The expected starting and ending dates of the planned work; and

(4) Any other information prescribed by the Mayor.

(c) If the owner demonstrates to the satisfaction of the Mayor that the tenant refuses to allow access after the owner provides notice of no less than 7 days, the owner shall be exempt from meeting any requirements of this chapter that are dependent upon such access as long as that tenant occupies that dwelling unit or until the tenant provides written notice of the tenant's willingness to allow access or otherwise allows access. Nothing in this subsection shall prohibit the Mayor from ordering the owner to fulfill the tenant's reasonable conditions for access or take other action to ensure that the ordered work can be completed.

(d) Notwithstanding subsections (a) through (c) of this subsection, if entrance is for the purpose of performing work, the tenant may deny access to any person not properly certified pursuant to § 8-231.10 to perform that work.

(Mar. 31, 2009, D.C. Law 17-381, § 7, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(f), 58 DCR 717.)

**Effect of amendments.** — D.C. Law 18-348 rewrote subsec. (a), which had read as follows: "(a) Subject to 14 DCMR § 707.18, a tenant shall allow access to his or her dwelling unit, at reasonable times, to the owner or his or her employee or representative to facilitate any work or inspection required under this chapter following the provision of written notice by the

owner at least 48 hours prior to the work or inspection."

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

**Legislative history of Law 18-348.** — For history of Law 18-348, see notes under § 8-231.01.

## § 8-231.07. Prohibition against retaliation.

(a) A tenant may provide information to the Mayor concerning deteriorated paint or lead-based paint hazards within a property or elevated blood levels of a person at risk.



(b) The provision of information in subsection (a) of this section shall be considered tenant rights.

(Mar. 31, 2009, D.C. Law 17-381, § 8, 56 DCR 1596.)

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

### **§ 8-231.08. Property owner's concurrent obligations.**

The provisions of this chapter do not reduce, replace, or eliminate:

(1) The duties and obligations of a property owner to monitor, repair, or maintain the property as required under any applicable District law or regulation; or

(2) The authority of the Mayor to enforce applicable housing codes or to issue orders in accordance with any applicable District law or regulation.

(Mar. 31, 2009, D.C. Law 17-381, § 9, 56 DCR 1596.)

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

### **§ 8-231.09. Lead Poisoning Prevention Fund. [Repealed].**

Repealed.

(Mar. 31, 2009, D.C. Law 17-381, § 10, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(g), 58 DCR 717; Sept. 14, 2011, D.C. Law 19-21, § 9090, 58 DCR 6226.)

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

**Legislative history of Law 18-348.** — For history of Law 18-348, see notes under § 8-231.01.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 8-102.03.

### **§ 8-231.10. Certification requirements for individuals and business entities conducting lead-based paint activities.**

(a) An individual or business entity shall obtain the appropriate certification from the Mayor by demonstrating compliance with subsections (b) or (c) of this section, as applicable, prior to conducting a lead-based paint activity, clearance examination, or renovation in any structure, built before 1978.

(b) An individual risk assessor, inspector, dust sampling technician, renovator, and supervisor shall submit proof to the Mayor that the individual has passed an examination required by the Mayor, or EPA-approved state program, for that discipline, and:

(1) A current appropriate certification from EPA or an EPA-approved state program; or

(2) Proof of the successful completion of an accredited training course and any required accredited review course.

(c) A business entity shall demonstrate to the satisfaction of the Mayor that all its employees and subcontractors conducting a lead-based paint activity, clearance examination, or renovation are:

(1) Certified pursuant to subsection (b) of this section;

(2) Comply with work practice rules established by the Mayor pursuant to this chapter; and

(3) Comply with all applicable federal and District laws, regulations, and rules governing the disposal of all waste containing lead.

(d) The Mayor may establish additional criteria and procedures for certification by rule.

(e) Certifications for lead-based paint activities shall expire 24 months from the date of issuance, or when otherwise determined by the Mayor. To maintain certifications for dust sampling technicians, individuals shall complete a refresher course within 5 years from the date of initial issuance of the certification.

(f) Individuals and business entities seeking certification and certification renewal in the District shall pay a reasonable fee set by the Mayor. The Mayor, by rulemaking, may revise the certification and certification renewal fees as necessary to cover the administrative costs associated with the issuance of certificates and inspection of lead-based paint activities.

(g) Except with regard to persons conducting lead-based paint activities pursuant to § 8-231.03, who must always comply with the provisions of this section, exceptions to this section are limited to the following:

(1) Individuals who perform lead-based paint activities or renovations in a residence which they own; provided, that the residence is occupied solely by the owner or the owner's immediate family, and there is no person at risk residing therein;

(2) Performance of maintenance, repair, or renovation work involving lead-based paint that results in disturbances of lead-based paint in a total of 2 square feet or less of surface area per room, except for window removal or replacement, are de minimis activities that do not trigger certification requirements;

(3) Individuals who perform maintenance, repair, painting, and renovation work that does not disturb painted surfaces; and

(4) Individuals who perform risk assessment and lead-based paint inspections for litigation or other forensic purpose, in compliance with all work practice rules established by the Mayor pursuant to this chapter, by an individual who possesses the appropriate certification by EPA or an EPA-approved state program.

(Mar. 31, 2009, D.C. Law 17-381, § 11, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(h), 58 DCR 717; Sept. 26, 2012, D.C. Law 19-171, § 61(b), 59 DCR 6190.)

**Section references.** — This section is referenced in § 8-231.06.

**Effect of amendments.** — D.C. Law 18-

348, in subsec. (a), substituted “any structure” for “dwelling unit or child-occupied facility” and substituted “1978,” for “March 1, 1978.”

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (a).

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

**Legislative history of Law 18-348.** — For history of Law 18-348, see notes under § 8-231.01.

**Legislative history of Law 19-171.** — See note to § 8-231.01.

## § 8-231.11. Work practice standards.

(a) Any owner, individual, or business entity conducting any lead-based paint activity, or demolition, renovation, remodeling, painting, carpentry, plumbing, or other activity, that may generate lead-based paint chips, dust, or other lead-based paint debris, in or on the exterior of a dwelling unit or child-occupied facility, built prior to 1978, shall use lead-safe work practices.

(b) In addition, any owner, individual, or business entity shall:

(1) Comply with the following work practice standards, as applicable:

(A) Work practice standards in 40 C.F.R. § 745.226 and 40 C.F.R. § 745.227, or any successor regulation of EPA;

(B) U.S. Department of Labor, Occupational Safety and Health Administration standards relating to lead, including those standards found at 29 C.F.R. § 1926.62 and 29 C.F.R. § 1910.1025, and any successor regulations;

(C) HUD Methods and Standards for Lead-Paint Hazard Evaluation and Hazard Activities contained in Chapter 35 of Title 24 of the Code of Federal Regulations, and any successor regulations; and

(D) Any other standards required by the Mayor by rule;

(2) Conform with the prohibition of unsafe practices listed at 24 C.F.R. § 35.140;

(3) Prevent paint dust, chips, debris, or residue from being dispersed onto adjacent property or increasing the risk of public exposure to lead-based paint; and

(4) Adhere to other requirements for renovations listed at 40 C.F.R. §§ 745.80 through 745.91 and any other requirements established by the Mayor.

(c) Subsection (a) of this section does not apply to the following:

(1) Individuals who perform lead-based paint activities in residences that they own; provided, that the residence is occupied by the owner or the owner's immediate family, and there is no person at risk residing therein; and

(2) Performance of maintenance, repair, or renovation work involving lead-based paint that results in disturbances of lead-based paint in a total of 2 square feet or less of surface area per room, except for window removal or replacement.

(d) No person shall cause paint dust, chips, debris, or residue to be dispersed onto adjacent property or increase the risk of public exposure to lead-based paint.

(e) Within 180 days from March 31, 2009, the Mayor shall issue rules establishing comprehensive safe work practice standards and training requirements in conformance with this section.

(f)(1) A clearance examination following elimination of a lead-based paint hazard ordered by the Mayor, or after such work performed in response to a child with an elevated blood lead level, shall not be conducted by:



(A) A risk assessor or lead inspector who is related to the owner or any tenant by blood or marriage;

(B) A risk assessor or lead inspector who is an employee or owner of the abatement firm performing the work;

(C) A risk assessor or lead inspector who is an employee or owner of an entity in which the abatement firm has a financial interest; or

(D) A dust sampling technician.

(2) In all other situations where a clearance examination is required under this chapter, the clearance examination may be performed by a lead inspector, dust sampling technician, or risk assessor, whether or not employed by the owner.

(g) Within 90 days of March 31, 2009, the Mayor shall establish certification requirements for the profession of dust sampling technician. The requirements shall include the successful completion of the appropriate course accredited by EPA under 40 C.F.R. § 745.225.

(h) All renovation work shall conform to such additional requirements as may be issued by the Mayor by rule.

(Mar. 31, 2009, D.C. Law 17-381, § 12, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(i), 58 DCR 717.)

**Section references.** — This section is referenced in § 8-231.03.

**Effect of amendments.** — D.C. Law 18-348, in subsec. (a), substituted “1978,” for “March 1, 1978,”; in subsec. (b)(1)(C), substituted “Chapter 35 of Title 24 of the Code of Federal Regulations” for “24 C.F.R. § 35.1330”; rewrote subsecs. (b)(4) and (f)(1).

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

**Legislative history of Law 18-348.** — For history of Law 18-348, see notes under § 8-231.01.

## § 8-231.12. Accreditation of training providers.

(a) An individual or business entity may not provide training on performing lead-based paint activities under this chapter unless accredited by the Mayor in accordance with this section.

(b)(1) To receive accreditation, a training provider shall:

(A) Submit an application to the Mayor that shall include the following information:

(i) Qualifications of all training managers and instructors;

(ii) Copies of all instructor and student course materials for each course offered, including materials covering requirements specific to District of Columbia statutes or regulations;

(iii) A description of the facilities and equipment available for lecture and hands-on training; and

(iv) Any other information determined by the Mayor to be necessary for approval of an application for accreditation; and

(B) Pay a reasonable application fee.

(2) The Mayor may exempt any District government agency or nonprofit organization for payment of the application fee and may revise the application fee as necessary to cover the administrative costs through rulemaking.

(c) Where appropriate, the Mayor shall accredit an educational services provider that already has been accredited by another state, EPA, or HUD, on a reciprocity basis, without a complete application; provided, that the educational services provider:

(1) Submits a copy of those portion of its course materials covering requirements specific to District statutes or regulations; and

(2) Pays the fee provided for in subsection (b)(1)(B) of this section.

(d) Accreditation by the Mayor shall expire 3 years from the date of issuance.

(Mar. 31, 2009, D.C. Law 17-381, § 13, 56 DCR 1596.)

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

### § 8-231.13. Record keeping and disclosure requirements.

(a) Owners, business entities, and individuals subject to this chapter shall maintain copies of any records or reports required by this chapter, for 6 years, or as the Mayor may otherwise establish by rule, and shall make those documents available for inspection by the Mayor upon request.

(b) If the Mayor is denied access to any records, reports, documents, or other data requested in connection with ensuring compliance with this chapter, the Mayor may issue a subpoena to obtain all necessary documents.

(c) An owner shall maintain copies of all lead-related reports related to the building or any part thereof and make the reports available to tenants, tenants' agents, and government officials for review and photocopying at reasonable hours and at a location reasonably close to the property.

(Mar. 31, 2009, D.C. Law 17-381, § 14, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(j), 58 DCR 717.)

**Effect of amendments.** — D.C. Law 18-348 added subsec. (c).

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

**Legislative history of Law 18-348.** — For history of Law 18-348, see notes under § 8-231.01.

### § 8-231.14. Denial, suspension, or revocation.

The Mayor, after notice and opportunity for hearing, may suspend, revoke, modify, or refuse to issue, renew, or restore a certificate or accreditation issued under this chapter if the Mayor finds that the applicant or holder:

(1) Has failed to comply with any provision of this chapter or rule issued pursuant to this chapter;

(2) Has misrepresented facts relating to a lead-based paint activity to a client or customer;

(3) Has made a false statement or misrepresentation material to the issuance, modification, or renewal of a certificate, permit, or accreditation;

(4) Has submitted a false or fraudulent record, invoice, or report;

(5) As a training provider, or as an instructor, has provided inaccurate information or inadequate training;

- (6) Fails to meet any qualifications required by this chapter;
- (7) Does not possess proof of required accreditation, as prescribed by the Mayor;
- (8) Has had a history of repeated violations; or
- (9) Has had a certificate, permit, or accreditation denied, revoked, or suspended in another state or jurisdiction.

(Mar. 31, 2009, D.C. Law 17-381, § 15, 56 DCR 1596.)

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

## **§ 8-231.15. Serving of notice; civil penalties.**

(a) Any notice or order served upon a respondent or other person pursuant to this chapter may be personally served, delivered to the respondent's or other person's last known home or business address and left with a person of suitable age and discretion residing or employed therein, or mailed to the respondent or other person by first-class mail to the respondent or other person's last known home or business address. When service is by mail, 5 additional days shall be added to the time period in the notice or order within which the respondent or other person may, or is required to, take any action specified in the notice order.

(b) Any violation of this chapter or implementing rule is punishable by a civil penalty not to exceed \$25,000 for each day of each offense. Each day a violation continues shall be deemed a separate offense.

(c) Civil infraction fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter or the rules issued under this chapter pursuant to Chapter 18 of Title 2 [§ 2-1801 et seq.]. Adjudication of any infractions shall be pursuant to Chapter 18 of Title 2 [§ 2-1801 et seq.].

(d) In determining the severity of a civil penalty under subsection (a) of this section, the Superior Court of the District of Columbia shall take into account the nature, circumstances, extent, gravity, actual or potential harm to the environment, and actual or potential harm to human health, of the violation or violations and, with respect to the violator, ability to pay, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(e) The Attorney General for the District of Columbia may commence appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief to enforce compliance with the provisions of this chapter.

(f) As specified by the Mayor in rulemaking, a person adversely affected by an action taken pursuant to the provisions of this chapter, or the rules or regulations promulgated pursuant to this chapter, is entitled to a hearing before the Mayor upon filing with the Mayor, within 15 calendar days of such action, a written request for a hearing. The hearing shall be held in accordance with § 2-509.



(Mar. 31, 2009, D.C. Law 17-381, § 16, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(k), 58 DCR 717.)

**Section references.** — This section is referenced in § 8-231.05.

**Effect of amendments.** — D.C. Law 18-348 rewrote subsec. (a), which had read as follows: “(a) Any notice required by this chapter may be served upon an owner of the dwelling or agent of the owner in the same manner as a summons in a civil action or by registered or certified mail

to his or her last known address or place of residence.”

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

**Legislative history of Law 18-348.** — For history of Law 18-348, see notes under § 8-231.01.

## § 8-231.16. Criminal penalties.

(a) Notwithstanding any other provision of this chapter, any person who knowingly or willingly violates the provisions of this chapter, or its implementing rules, shall be subject, upon conviction, to a fine of not more than \$ 25,000 for each day of each violation, imprisonment for not more than one year, or both.

(b) Falsification of information required by this chapter shall be a violation of this chapter.

(c) In determining the severity of a criminal penalty, the Superior Court of the District of Columbia shall take into account the nature, circumstances, extent, gravity, actual or potential harm to the environment, and actual or potential harm to human health of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(d) All prosecutions under this section shall be in the Superior Court of the District of Columbia in the name of the District of Columbia and shall be instituted by the Attorney General for the District of Columbia.

(Mar. 31, 2009, D.C. Law 17-381, § 17, 56 DCR 1596.)

**Section references.** — This section is referenced in § 8-231.05.

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

## § 8-231.17. No private right of action against the District.

Nothing in this chapter is intended to, or does, create a private right of action against the government of the District of Columbia and its officers, employees, agents, representatives, contractors, successors, and assigns based upon compliance or noncompliance with its provisions. No person or entity may assert any claim or right as a beneficiary or protected class under this chapter in any civil, criminal, or administrative action against the District of Columbia.

(Mar. 31, 2009, D.C. Law 17-381, § 18, 56 DCR 1596.)

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

## § 8-231.18. Rulemaking.

(a) Except as otherwise provided, the Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this chapter.

(b) Notwithstanding the requirements of § 2-552(c), where the Mayor chooses to adopt a federal regulation as the District's standard under this chapter, the Mayor may do so by incorporating the federal regulation by reference in the Notice of Intent to take rulemaking action. When incorporating the federal regulation by reference, the notice shall include a specific indication of how and where a paper or electronic copy of such document may be inspected or obtained. Any amendments to the incorporated federal rules shall be deemed to be included in the District's rules; provided, that after the initial adoption of the federal regulation, the Mayor shall annually issue a Notice of Intent to re-adopt the federal standard, in whole or in part, or announce an intent to adopt a different standard.

(Mar. 31, 2009, D.C. Law 17-381, § 19, 56 DCR 1596.)

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

## § 8-231.18a. Enforcement of housing code regulations.

The presence of loose or peeling paint in residential premises in violation of the housing code regulations codified in Title 14 of the District of Columbia Municipal Regulations which constitutes a lead-based paint hazard under this chapter, shall be enforced by the Mayor according to the provisions of this chapter.

(Mar. 31, 2009, D.C. Law 17-381, § 19a, as added Mar. 31, 2011, D.C. Law 18-348, § 2(l), 58 DCR 717; Sept. 26, 2012, D.C. Law 19-171, § 61(c), 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted “Enforcement of housing code regulations” for “Conforming amendment” in the section heading as enacted by D.C. Law 18-348.

**Legislative history of Law 18-348.** — For history of Law 18-348, see notes under § 8-231.01.

**Legislative history of Law 19-171.** — See note to § 8-231.01.

## § 8-231.19. Common law unaffected.

The remedies under this chapter do not supplant rights and remedies that may be available against property owners and other liable parties under the common law.

(Mar. 31, 2009, D.C. Law 17-381, § 20, 56 DCR 1596.)

**Legislative history of Law 17-381.** — For Law 17-381, see notes following § 8-231.01.

**§ 8-231.20. Authorization to seek delegation.**

The Mayor is authorized to take actions necessary to obtain authorization from the United States Environmental Protection Agency for the Mayor to administer and enforce state programs pursuant to the Renovation, Repair and Painting and Pre-Renovation Education programs under Part 745 of Chapter 1 of Title 40 of the Code of Federal Regulations.

(Mar. 31, 2009, D.C. Law 17-381, § 20a, as added Mar. 31, 2011, D.C. Law 18-348, § 2(m), 58 DCR 717.)

**Legislative history of Law 18-348.** — For history of Law 18-348, see notes under § 8-231.01.



## CHAPTER 3. WEEDS AND PLANT DISEASES.

Sec.	Sec.
8-301. Duty to remove weeds 4 inches in height; notice; penalties for failure to comply; adjudications.	8-303. Prosecutions.
8-302. Removal of weeds by Mayor.	8-304. Plant diseases and insect pest control.
	8-305. Penalty.

### § 8-301. Duty to remove weeds 4 inches in height; notice; penalties for failure to comply; adjudications.

It shall be the duty of the owner, occupant, or agent in charge of any land in the City of Washington, or in the more densely populated suburbs of said City, to remove from such land any weeds thereon of 4 or more inches in height within 7 days (Sundays and legal holidays excepted) after notice from the Director of the Department of Human Services so to do, and upon failure to comply with such notice he or she shall, on conviction thereof, be punished by a fine of not more than \$10 for each day said notice is not complied with. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this section, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this section shall be pursuant to Chapter 18 of Title 2.

(Mar. 1, 1899, 30 Stat. 959, ch. 326, § 1; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1; Oct. 5, 1985, D.C. Law 6-42, § 471, 32 DCR 4450.)

**Section references.** — This section is referenced in § 8-303.

**Prior Codifications.** — 1981 Ed., § 6-1101.  
1973 Ed., § 6-901.

**Legislative history of Law 6-42.** — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on

Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Editor’s notes.** — Office of Director of Public Health abolished: See Historical and Statutory Notes following § 7-101.

### § 8-302. Removal of weeds by Mayor.

Whenever there are upon any unoccupied land aforesaid weeds of 4 or more inches in height, and no person can be found in the District of Columbia who either is or claims to be the owner thereof, or who either represents or claims to represent such owner as aforesaid, the Mayor of the District of Columbia shall give notice, by publication twice a week in 1 daily newspaper published in the City of Washington aforesaid, requiring their removal. Said notice shall specify the land from which such weeds are to be removed, the character of the work to be done, and the time allowed for doing the same; and if such weeds be not removed within the time so specified it shall be the duty of said Mayor to cause their removal; and double the cost of such removal, including the cost of advertising, shall be a lien upon and shall be assessed by said Mayor as a tax against the property on which said weeds were located, and the said tax so assessed shall bear interest at the rate of 20 per centum per annum till paid,

and shall be carried on the regular tax rolls of said District and be collected in the manner provided for the collection of general taxes.

(Mar. 1, 1899, 30 Stat. 959, ch. 326, § 2; Apr. 23, 1977, D.C. Law 1-128, § 2, 23 DCR 9692.)

**Prior Codifications.** — 1981 Ed., § 6-1102. 1973 Ed., § 6-902.

**Legislative history of Law 1-128.** — Law 1-128, the “Nuisance Elimination Act of 1976,” was introduced in Council and assigned Bill No. 1-303, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on November 23, 1976, and December 7, 1976, respectively. Enacted without signature by the Mayor on January 19, 1977, it was assigned Act No. 1-222 and transmitted to both Houses of Congress for its review.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of

Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 8-303. Prosecutions.

Prosecutions under §§ 8-301 to 8-303 shall be in the Superior Court of the District of Columbia, upon information filed by the Corporation Counsel for said District or 1 of his assistants.

(Mar. 1, 1899, 30 Stat. 959, ch. 326, § 3; Mar. 3, 1901, 31 Stat. 1340, ch. 854, § 932; June 30, 1902, 32 Stat. 537, ch. 1329; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a).)

**Prior Codifications.** — 1981 Ed., § 6-1103. 1973 Ed., § 6-903.

## § 8-304. Plant diseases and insect pest control.

(a) In order further to control and eradicate and to prevent the dissemination of dangerous plant diseases and insect infections and infestations, no plant or plant products for or capable of propagation, including nursery stock, hereinafter referred to as plants and plant products, shall be moved or allowed to be moved, shipped, transported, or carried by any means whatever into or out of the District of Columbia, except in compliance with such rules and regulations as shall be prescribed by the Secretary of Agriculture as hereinafter provided. Whenever the Secretary of Agriculture, after investigation, shall determine that any plants and plant products in the District of Columbia are infested or infected with insect pests and diseases and that any place, articles, and substances used or connected therewith are so infested or infected, written notice thereof shall be given by him to the owner or person in possession or control thereof, and such owner or person shall forthwith control or eradicate and prevent the dissemination of such insect pest or disease and shall remove,



cut, or destroy such infested and infected plants, plant products, and articles and substances used or connected therewith, which are hereby declared to be nuisances, within the time and in the manner required in said notice or by the rules and regulations of the Secretary of Agriculture. Whenever such owner or person cannot be found, or shall fail, neglect, or refuse to comply with the foregoing provisions of this section, the Secretary of Agriculture is hereby authorized and required to control and eradicate and prevent dissemination of such insect pest or disease and to remove, cut, or destroy infested or infected plants and plant products and articles and substances used or connected therewith, and the United States shall have an action of debt against such owner or persons for expenses incurred by the Secretary of Agriculture in that behalf. Employees of the Regulatory Division of the Department of Agriculture are hereby authorized and required to inspect places, plants, and plant products and articles and substances used or connected therewith whenever the Secretary of Agriculture shall determine that such inspections are necessary for the purposes of this section. For the purpose of carrying out the provisions and requirements of this section and of the rules and regulations of the Secretary of Agriculture made hereunder, and the notices given pursuant thereto, employees of the Regulatory Division of the Department of Agriculture shall have power with a warrant to enter into or upon any place and open any bundle, package, or other container of plants or plant products whenever they shall have cause to believe that infections or infestations of plant pests and diseases exist therein or thereon, and when such infections or infestations are found to exist, after notice by the Secretary of Agriculture to the owner or person in possession or control thereof and an opportunity by said owner or person to be heard, to destroy the infected or infested plants or plant products contained therein. The Superior Court of the District of Columbia shall have power, upon information supported by oath or affirmation showing probable cause for believing that there exists in any place, bundle, package, or other container in the District of Columbia any plant or plant product which is infected or infested with plant pests or disease, to issue warrants for the search for and seizure of all such plants and plant products.

(b) It shall be the duty of the Secretary of Agriculture, and he is hereby required, from time to time, to make and promulgate such rules and regulations as shall be necessary to carry out the purposes of this section, and any person who shall move or allow to be moved, or shall ship, transport, or carry, by any means whatever, any plant or plant products from or into the District of Columbia, except in compliance with the rules and regulations prescribed under this section, shall be punished, as is provided in § 8-305.

(Aug. 20, 1912, ch. 308, § 15; May 31, 1920, 41 Stat. 726, ch. 217; May 16, 1928, 45 Stat. 565, ch. 572; July 7, 1932, 47 Stat. 640, ch. 443; Mar. 26, 1934, 48 Stat. 486, ch. 89; Apr. 1, 1942, 56 Stat. 190, 192, ch. 207, §§ 1-4; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a).)



**Prior Codifications.** — 1981 Ed., § 6-1104. 1973 Ed., § 6-904.

**§ 8-305. Penalty.**

Any person who shall violate any of the provisions of §§ 151—154 [repealed], 156—161 [repealed] and 162—164a [repealed] of Title 7, United States Code, or who shall forge, counterfeit, alter, deface, or destroy any certificate provided for in said sections, or in the regulations of the Secretary of Agriculture, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding \$500 or by imprisonment not exceeding 1 year, or both such fine and imprisonment, in the discretion of the court; provided, that no common carrier shall be deemed to have violated the provisions of §§ 152 [repealed], 154 [repealed], 156—161 [repealed] and 162 [repealed] of Title 7, United States Code, on proof that such carrier did not knowingly receive for transportation or transport nursery stock or other plants or plant products as such from 1 state, territory, or district of the United States into or through any other state, territory, or district; and it shall be the duty of the United States Attorneys diligently to prosecute any violations of §§ 151—154 [repealed], 156—161 [repealed] and 162—164a [repealed] of Title 7, United States Code which are brought to their attention by the Secretary of Agriculture or which come to their notice by other means.

(Aug. 20, 1912, 37 Stat. 318, ch. 308, § 10.)

**Section references.** — This section is referenced in § 8-304.

**Prior Codifications.** — 1981 Ed., § 6-1105. 1973 Ed., § 6-905.

## CHAPTER 4. PESTICIDE OPERATIONS.

Sec.	Sec.
8-401. Definitions.	mental entities and public applicators.
8-402. Registration pesticides.	
8-403. Pesticide applicators.	8-409. Records and reports.
8-403.01. Information to be supplied customers.	8-410. Denial, suspension, modification, and revocation of certification or license.
8-403.02. Information to be supplied multi-unit property residents and tenants.	8-411. Administration and enforcement; adoption of regulations.
8-403.03. Signs posted for exterior application.	8-412. Enforcement.
8-403.04. Reduced-risk pesticides and methods of pest control.	8-413. Reports of pesticide accidents or losses.
8-404. Registered employees.	8-414. Storage and disposal.
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## § 8-401. Definitions.

As used in this chapter:

(a) The term "active ingredient" means:

(1) In the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any pest;

(2) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof;

(3) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

(4) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(b) The term "Administrator" means the Administrator of the United States Environmental Protection Agency.

(c) The term "adulteration" refers to a pesticide the strength or purity of which falls below the professed standard or quality as expressed in its labeling or under which it is sold, or the total or partial substitution of any substance for the pesticide, or the total or partial abstraction of any valuable constituent of the pesticide.

(d) The term "animal" means all vertebrate and invertebrate species, including but not limited to man, other mammals, birds, fish, and shellfish.

(e) The term "certified applicator" means any individual who is certified by the Mayor as being competent to use or supervise the use of any restricted use pesticide or class of restricted use pesticides covered by his certification.

(f) The term "commercial applicator" means an individual, whether or not he is a private applicator with respect to some uses, who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by the definition of "private applicator".

(g) The term "defoliant" means any substance or mixture of substances

intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(h) The term “desiccant” means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(i) The term “device” means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest of any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.

(j) The term “distribute” means to offer for sale, hold for sale, sell, barter, or trade a commodity.

(k) The term “District” means the District of Columbia.

(l) The term “environment” includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

(m) The term “equipment” means any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in such land, but shall not include any pressurized hand-sized household apparatus used to apply any pesticide.

(n) The term “FIFRA” means the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 135 et seq.) [7 U.S.C. § 136 et seq.], as amended.

(o) The term “fungus” means any non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

(p) The term “insect” means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(q) The term “label” means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its container or wrappers.

(r) The term “labeling” means all labels and all other written, printed, or graphic matter:

(1) Accompanying the pesticide or device at any time, or

(2) Accompanying or referring to the pesticide or device except when accurate non-misleading references are made to current official publications of Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

(s) The term “land” means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.



(t) The term “Mayor” means the Mayor of the District of Columbia or his designated agent.

(u) The term “misbranded” means:

(1) A pesticide is misbranded if:

(A) Its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(B) It is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to § 25(c)(3) of FIFRA [7 U.S.C. § 136w];

(C) It is an imitation of, or is offered for sale under the name of, another pesticide;

(D) Its label does not bear the registration number assigned under § 7 of FIFRA [7 U.S.C. § 136e] to each establishment in which it was produced;

(E) Any word, statement, or other information required by or under authority of FIFRA to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(F) The labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under § 3(d) of FIFRA [7 U.S.C. § 136a(d)] are adequate to protect health and the environment;

(G) The label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under § 3(d) of FIFRA [7 U.S.C. § 136a(d)], is adequate to protect health and the environment.

(2) A pesticide is misbranded if:

(A) The label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read) which is presented or displayed under customary conditions of purchase, except that pesticide is not misbranded under this subparagraph if:

(i) The size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and

(ii) The ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the Administrator;

(B) The labeling does not contain a statement of the use classification under which the product is registered;

(C) There is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required

information on the immediate container cannot be clearly read, a label bearing:

- (i) The name and address of the producer, registrant, or person for whom produced;
- (ii) The name, brand, or trademark under which the pesticide is sold;
- (iii) The net weight or measure of the content; provided, that the Administrator may permit reasonable variations; and
- (iv) When required by regulation of the Administrator to effectuate the purposes of FIFRA, the registration number assigned to the pesticide under FIFRA, and the use classification; and

(D) The pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by FIFRA:

- (i) The skull and crossbones;
- (ii) The word "poison" prominently in red on a background of distinctly contrasting color; and
- (iii) A statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

(v) The term "nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

(w) The term "person" means any individual, partnership, association, corporation, company, joint stock association, or any organized group of people whether incorporated or not, and includes any trustee, receiver, or assignee.

(x) The term "pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which commonly is considered to be detrimental to man or his interests or which the Mayor may declare to be detrimental.

(y) The term "pesticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(z) The term "pesticide applicator" means an individual who is a (1) commercial applicator; (2) private applicator; (3) public applicator; or (4) registered employee.

(aa) The term "pesticide dealer" means any person who distributes to the ultimate user restricted use pesticides or any pesticide whose use or distribution are further restricted by the Mayor.

(bb) The term "pesticide operator" means (1) any person who owns or manages a pesticide application business in which pesticides are applied upon the lands of another for hire or compensation; or (2) except as otherwise provided under the definition of "private applicator", the owner or manager of any commercial firm, business, corporation, or private institution, who directly

or through his employees uses restricted use pesticides on property owned, managed, or leased by such commercial firm, business, corporation, or private institution; or (3) any District or other governmental agency whose officials or employees apply pesticides as part of their normal duties.

(cc) The term “plant regulator” means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. Also, it shall not be required to include any of such of those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation of plants, and as are not for pest destruction and are nontoxic, nonpoisonous in the undiluted packaged concentration.

(dd) The term “private applicator” means any individual who uses any restricted use pesticide for purposes of producing any agricultural commodity on property owned or rented by him or his employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(ee) The term “public applicator” means a commercial applicator who is an employee of the District or of a governmental agency who is authorized to use or supervise the use of pesticides.

(ff) The term “registered employee” means an individual who is registered with the Mayor, pursuant to § 8-404, and who works under the direct supervision of a licensed commercial or public applicator.

(gg) The term “restricted use pesticides” means any pesticides or pesticide use classified by the Administrator for restricted use; or any pesticide, which when used as directed or in accordance with a commonly recognized practice, the Mayor determines, subsequent to a hearing, that additional restrictions for that use are necessary in order to prevent a hazard to the applicator or other persons, or to prevent unreasonable adverse effects upon the environment.

(hh) The term “under the direct supervision of” means that unless otherwise prescribed by its labeling or other restrictions imposed by the Mayor, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent registered employee acting under the instruction and control of a certified applicator who is available if and when needed, even though such certified applicator may not be physically present at the time and place the pesticide is applied.

(ii) The term “weed” means any plant which grows where it is not wanted.

(Apr. 18, 1978, D.C. Law 2-70, § 2, 24 DCR 6867; Apr. 12, 2000, D.C. Law 13-91, § 138, 47 DCR 520.)

**Section references.** — This section is referenced in § 8-406 and § 36-410.

**Prior Codifications.** — 1981 Ed., § 6-751.1.

**Effect of amendments.** — D.C. Law 13-91,

in subsec. (n), validated a previously made technical amendment.

**Legislative history of Law 2-70.** — Law 2-70, the “Pesticide Operations Act of 1977,” was introduced in Council and assigned Bill



No. 2-180. The Bill was adopted on first and second readings on November 8, 1977, and November 22, 1977, respectively. Signed by the Mayor on February 3, 1978, it was assigned Act No. 2-145 and transmitted to both Houses of Congress for its review. D.C. Law 2-70 became effective on April 18, 1978.

**Legislative history of Law 13-91.** — Law 13-91, the “Technical Amendments Act of 1999,”

was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

## § 8-402. Registration pesticides.

(a) Only those compounds that are registered with the Pesticide Registration Division of the Environmental Protection Agency shall be manufactured, sold, shipped, used, or applied in the District of Columbia, and they shall be used only in the manner or manners specified and approved by the Environmental Protection Agency.

(b) The Mayor may in his discretion require that pesticides registered with the Environmental Protection Agency which are distributed within the District of Columbia also be registered with the Mayor.

(Apr. 18, 1978, D.C. Law 2-70, § 3, 24 DCR 6867.)

**Prior Codifications.** — 1981 Ed., § 6-751.2.

legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Legislative history of Law 2-70.** — For

## § 8-403. Pesticide applicators.

(a) *Licensing* —

(1) No person shall purchase, use, or supervise the use of any restricted use pesticide unless he is licensed by the Mayor in accordance with this chapter and the rules and regulations promulgated thereto, except that a registered employee may purchase and use such pesticides under the direct supervision of a licensed commercial or public applicator.

(2) Application for a pesticide applicator’s license shall be made in writing on a form prescribed by the Mayor. The Mayor shall establish fees in amounts sufficient to cover the cost of the licensing. A pesticide applicator license shall be valid for the period of time prescribed by the Mayor. The Mayor shall provide for the issuance of appropriate credentials for the applicator.

(b) *Certification* —

(1) No person may be licensed to use any restricted use pesticide unless he has been certified by the Mayor in accordance with this chapter and the rules and regulations promulgated pursuant thereto.

(2) After a public hearing held in conformance with the provisions of subchapter I of Chapter 5 of Title 2, the Mayor shall prescribe regulations for the certification of private and commercial applicators.

(3) The Mayor shall establish categories and, where applicable, may establish subcategories, of commercial applicators, depending upon the types of pesticides used, the purposes for which they are used, the types of equipment required in their application, the degree of knowledge or skill required in their application, and other relevant factors.

(4) The Mayor shall require an applicant for commercial applicator certification to show, by written examination, and, as applicable, by practical testing, that he is competent in the proper handling, use, and application of pesticides in the certification categories for which he has applied, and that he knows the dangers involved and precautions to be taken in connection with the use and application of such pesticides, and to meet such other requirements as the Mayor may hereafter prescribe.

(5) The Mayor shall develop procedures to ensure that all certified applicators continue to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

(6) The Mayor shall establish a system for determining the competency of applicants for private applicator certification in the use and handling of pesticides.

(7) Application for certification shall be made in writing on a form prescribed by the Mayor. Applicator certification shall be valid for such period as prescribed by the Mayor. The Mayor shall provide for the issuance of appropriate credentials specifying the categories in which the applicator has demonstrated competency.

(8) If the Mayor does not certify the applicator under this section, he shall inform the applicant in writing of the reasons therefor.

(Apr. 18, 1978, D.C. Law 2-70, § 4, 24 DCR 6867.)

**Section references.** — This section is referenced in § 8-408.

**Prior Codifications.** — 1981 Ed., § 6-751.3.

**Legislative history of Law 2-70.** — For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Editor's notes.** — Section 12(a) of D.C. Law 19-191 amended subsection (b) of this section.

Section 14(a) of D.C. Law 19-191 provided that §§ 1 through 5 and 8 through 13 of the act shall apply as of October 1, 2013.

## § 8-403.01. Information to be supplied customers.

(a) Before a pesticide is applied, the pesticide operator shall provide the customer with the following written information:

- (1) Name of pesticide operator;
- (2) Name of pesticide applicator applying pesticides if different from that of the operator;
- (3) District of Columbia pesticide operator license number;
- (4) Telephone number of pesticide operator;
- (5) National Capital Poison Control Center hotline number;
- (6) Re-entry period specified on the pesticide label, if applicable;
- (7) Pest to be controlled;
- (8) Common name of pesticide or active ingredient to be applied;
- (9) The following statement: "District of Columbia law requires that you be given the following information:

Notice of Pesticide Application:

**CAUTION — PESTICIDES MAY CONTAIN TOXIC CHEMICALS.** Companies that apply pesticides are licensed by the Department of Consumer and

Regulatory Affairs and regulated by the District Department of the Environment (“DDOE”). The Environmental Protection Agency and DDOE approve pesticides for use. At your request, the company conducting your pest control will provide you with either or both of the Material Safety Data Sheet(s) or the pesticide label(s), both of which provide further information about the approved uses of and recommended precautions for the pesticide being applied on your property. Neither of these documents is guaranteed to list every danger associated with a pesticide. DDOE maintains a list of pesticides that present a reduced risk to humans and the environment, and encourages the use of such pesticides whenever possible. The pesticide company

☐ HAS

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chosen to apply reduced-risk pesticide(s). The District of Columbia government encourages the use of non-chemical and reduced-risk methods of pest control by residents and commercial pest control companies. Even when using reduced-risk pesticides, residents should familiarize themselves with safety information for pesticide products, and should avoid exposure to pesticides.”; and

(10) At the request of the customer, both or either of:

(A) An original or legible copy of the current pesticide product label; or

(B) A Material Safety Data Sheet.

(b) Upon the customer’s request, the pesticide operator shall provide the customer with advance notice of a pesticide application.

(c) When the pesticide is to be applied on a multi-unit property, the pesticide operator shall provide the information listed in subsection (a) of this section to the customer at least 48 hours before the pesticide is to be applied.

(Apr. 18, 1978, D.C. Law 2-70, § 4a, as added June 5, 2008, D.C. Law 17-168, § 2, 55 DCR 5180.)

**Section references.** — This section is referenced in § 8-403.02 and § 8-403.04.

**Legislative history of Law 17-168.** — Law 17-168, the “Loretta Carter Hanes Pesticide Consumer Notification Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-493 which was referred to the Committee on Public Service and Consumer Affairs.

The Bill was adopted on first and second readings on March 4, 2008, and April 1, 2008, respectively. Signed by the Mayor on April 14, 2008, it was assigned Act No. 17-342 and transmitted to both Houses of Congress for its review. D.C. Law 17-168 became effective on June 5, 2008.

## § 8-403.02. Information to be supplied multi-unit property residents and tenants.

At least 24 hours, and not more than 7 days, before the application of pesticides on a multi-unit property, the owner of the property shall provide each resident and tenant of the property that will be treated with the information listed in § 8-403.01 by:

(1) Delivering the information to each resident’s door or mailbox, or to each resident through electronic mail or facsimile; and

(2) Posting the information conspicuously in common spaces on the



property, in reasonably close proximity to the locations where pesticide will be applied.

(Apr. 18, 1978, D.C. Law 2-70, § 4b, as added June 5, 2008, D.C. Law 17-168, § 2, 55 DCR 5180.)

**Legislative history of Law 17-168.** — For Law 17-168, see notes following § 8-403.01.

### **§ 8-403.03. Signs posted for exterior application.**

(a) Any person applying pesticides to a lawn or to exterior landscape plants shall post at the time of application a sign containing a uniform statement approved by the Mayor.

(b) The sign shall remain for 48 hours following the pesticide application, after which time the property owner shall be responsible for the removal of the sign.

(c) The sign shall be clearly visible:

- (1) From the principal places of access to the property; and
- (2) On the portion of the property where the pesticide is applied.

(Apr. 18, 1978, D.C. Law 2-70, § 4c, as added June 5, 2008, D.C. Law 17-168, § 2, 55 DCR 5180.)

**Legislative history of Law 17-168.** — For Law 17-168, see notes following § 8-403.01.

### **§ 8-403.04. Reduced-risk pesticides and methods of pest control.**

(a) If a pesticide designated by the Mayor as reduced-risk pursuant to subsection (b) of this subsection is applied, the operator shall indicate on the customer notice provided in § 8-403.01(a)(9) that the customer has selected a reduced-risk pesticide.

(b) Within 6 months of June 5, 2008, the Mayor shall approve a list of reduced-risk pesticides and methods of pest control.

(Apr. 18, 1978, D.C. Law 2-70, § 4d, as added June 5, 2008, D.C. Law 17-168, § 2, 55 DCR 5180.)

**Legislative history of Law 17-168.** — For Law 17-168, see notes following § 8-403.01.

### **§ 8-404. Registered employees.**

(a) No person, not licensed pursuant to this chapter and not acting as a private applicator, shall administer any pesticide unless he is registered with the Mayor and is acting under the direct supervision of a licensed applicator.

(b) Application for registration shall be made in writing on a form prescribed by the Mayor and the registration shall be valid for the time period prescribed by the Mayor. The Mayor shall provide for the issuance of appropriate credentials for all registrants.

(Apr. 18, 1978, D.C. Law 2-70, § 5, 24 DCR 6867.)

**Section references.** — This section is referenced in § 8-401 and § 8-408.

**Prior Codifications.** — 1981 Ed., § 6-751.4.

**Legislative history of Law 2-70.** — For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Editor's notes.** — Section 12(c) of D.C. Law 19-191 amended this section.

Section 14(a) of D.C. Law 19-191 provided that §§ 1 through 5 and 8 through 13 of the act shall apply as of October 1, 2013.

## § 8-405. Pesticide dealers.

(a) No person shall act in the capacity of, or advertise as, or assume to act as a pesticide dealer at any time unless he is licensed by the Mayor in accordance with this chapter and the rules and regulations promulgated pursuant thereto.

(b)(1) The Mayor shall provide for the licensing of pesticide dealers located within the District; provided, that any manufacturer, registrant, or distributor whose products are distributed or who distributes products in the District and who has no pesticide dealer outlet licensed within the District shall obtain a pesticide dealer's license from the Mayor for his principal out-of-state location or outlet.

(2) Application for a pesticide dealer's license shall be made in writing on a form prescribed by the Mayor.

(3) The Mayor shall establish fees in an amount sufficient to cover the cost of the licensing. The license shall be valid for the time period prescribed by the Mayor.

(c) A pesticide dealer shall be responsible for the acts of each of his employees in the solicitation and sale of restricted use pesticides, and for all claims and recommendations for the use of restricted use pesticides.

(d) The provisions of this section shall not apply to a licensed pesticide operator who sells restricted use pesticides only as an integral part of his pesticide application service, or to any District or other governmental agency which provides pesticides only for its own programs.

(Apr. 18, 1978, D.C. Law 2-70, § 6, 24 DCR 6867.)

**Prior Codifications.** — 1981 Ed., § 6-751.5.

**Legislative history of Law 2-70.** — For

legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

## § 8-406. Pesticide operators.

(a) No person shall act in the capacity of a pesticide operator, or advertise as or assume to act as a pesticide operator at any time unless he is licensed by the Mayor in accordance with this chapter and the rules and regulations promulgated pursuant thereto.

(b) Application for a pesticide operator license shall be made in writing on a form prescribed by the Mayor. Each application shall contain information regarding the applicant's proposed operations, license classification or classifications applied for, and shall include the following:

- (1) The full name of the person applying for the license;
- (2) The full name of each member of the firm or partnership, or the names of the principal officers of the association, corporation, or group, if the applicant is a person other than an individual;
- (3) The business address of the applicant;
- (4) A certificate of liability insurance as required by § 8-407;
- (5) Designation of those individuals who are certified and licensed in each category in which the business will engage; and
- (6) Such other information as the Mayor may prescribe.

(c)(1) No licensed pesticide operator (as defined in § 8-401(bb)(1) and (bb)(3)) shall permit the use of any pesticide by any person who is not a licensed commercial or public applicator designated pursuant to § 8-406, or a registered employee of the pesticide operator acting under the direct supervision of the licensed applicator.

(2) No licensed pesticide operator (as defined in § 8-401(bb)(2)) shall permit the use of any restricted use pesticide by any person who is not a licensed commercial or public applicator designated pursuant to § 8-406(b)(5), or a registered employee of the pesticide operator acting under the direct supervision of the licensed applicator.

(Apr. 18, 1978, D.C. Law 2-70, § 7, 24 DCR 6867.)

**Prior Codifications.** — 1981 Ed., § 6-751.6.

legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Legislative history of Law 2-70.** — For

## § 8-407. Liability insurance.

(a) The Mayor shall not issue a pesticide operator's license until the applicant has furnished evidence of financial responsibility in the form of liability insurance for the protection of persons who may suffer damages as a result of the operations of the applicant.

(b) The amount of minimum financial responsibility shall be established by the Mayor and shall be maintained at not less than that sum as long as the pesticide operator engages in business in those categories for which his license is issued.

(c) The insurer of a pesticide operator shall notify the Mayor in writing at least ten (10) days prior to the effective date of cancellation, if a licensee's policy is to be cancelled. It shall be the licensee's responsibility to inform his insurer of this requirement.

(d) Nothing in this chapter shall be construed to relieve any person from liability for any damages to the person or lands of another caused by the use of pesticides even though such use conforms to regulations prescribed by the Mayor.

(Apr. 18, 1978, D.C. Law 2-70, § 8, 24 DCR 6867.)

**Section references.** — This section is referenced in § 8-406 and § 8-408.

**Prior Codifications.** — 1981 Ed., § 6-751.7.



**Legislative history of Law 2-70.** — For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

## § 8-408. Application of this chapter to governmental entities and public applicators.

(a) Except as otherwise provided, all District and other governmental agencies shall be subject to the provisions of this chapter and to all rules and regulations promulgated pursuant thereto concerning the application of pesticides.

(b) Public applicators for District and other governmental agencies shall be subject to examination (as provided for in § 8-403) and to the licensing provisions of § 8-404. The Mayor shall issue a limited license to each qualified public applicator. No fee shall be charged for the issuance of such a license to an employee of the District. The public applicator license shall be valid only when the licensee is engaged as an applicator in using or supervising the use of pesticides by District and other governmental agencies on lands owned or rented by such agencies or is acting within the scope of his employment.

(c) District and other governmental agencies employing pesticide applicators shall not be subject to the financial responsibility requirements of § 8-407.

(Apr. 18, 1978, D.C. Law 2-70, § 9, 24 DCR 6867.)

**Prior Codifications.** — 1981 Ed., § 6-751.8. legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Legislative history of Law 2-70.** — For

## § 8-409. Records and reports.

(a) Commercial applicators and pesticide operators shall maintain records containing the information the Mayor may promulgate by regulation.

(b) Pesticide dealers shall maintain records containing such information as the Mayor shall promulgate by regulation to adequately identify purchases of restricted use pesticides and the materials purchased.

(c) The Mayor may, pursuant to regulations promulgated by him, require private applicators to maintain records or file reports or other documents.

(d) Each person shall upon written request furnish the Mayor with copies of any requested records or any other information requested by the Mayor.

(e) The records required to be maintained by subsections (a), (b), and (c) shall be subject to inspection by the Mayor at any time during business hours. The applicator or operator who prepared them shall transfer to the Mayor as required by appropriate regulations all such records which were prepared during that period which is determined by the regulations, and the Mayor shall preserve them for not less than ten (10) years. Should any such applicator or operator go out of business all such records in his or her possession shall immediately be transferred to the Mayor.

(Apr. 18, 1978, D.C. Law 2-70, § 10, 24 DCR 6867.)

**Prior Codifications.** — 1981 Ed., § 6-751.9.

legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Legislative history of Law 2-70.** — For

## § 8-410. Denial, suspension, modification, and revocation of certification or license.

(a) In denying a license or certificate, or before revoking, modifying, or suspending a license or certificate, the Mayor shall notify the applicant, licensee, or certificate holder in writing of the proposed action and the basis therefor. The grounds upon which the Mayor may deny, revoke, modify or suspend a license or certificate include a violation of any of the unlawful acts specified in § 8-417, or the violation of any of the rules and regulations promulgated pursuant to this chapter. The applicant, licensee, or certificate holder shall have seven (7) business days from the date of receipt of the notice of proposed action to request a hearing before the Mayor to show cause why the license or certificate should not be denied, revoked, modified or suspended.

(b) The Mayor may deny the issuance of a license, or revoke, modify, or suspend a license or certificate issued under this chapter if the applicant, licensee or certificate holder has been convicted under FIFRA, or is subject to a final order imposing a civil penalty under FIFRA.

(c) The Mayor may issue a warning notice to an applicant, licensee, or certificate holder for a violation or threatened violation of any of the unlawful acts specified in § 8-417.

(d) The Mayor may suspend a license or certificate immediately, to protect the public health, safety, or welfare pending further investigation.

(e) The Mayor shall not reissue a license to one whose license has been revoked until after at least one hundred and eighty (180) days following the revocation.

(f) Any person aggrieved by any action of the Mayor may obtain a review thereof by appealing to the Office of Administrative Hearings ("Office"). The decision of the Office shall be the final administrative remedy. Any person adversely affected by a decision of the Office may seek judicial review thereof in the District of Columbia Court of Appeals, pursuant to subchapter I of Chapter 5 of Title 2.

(Apr. 18, 1978, D.C. Law 2-70, § 11, 24 DCR 6867; Apr. 13, 2005, D.C. Law 15-354, § 20, 52 DCR 2638.)

**Prior Codifications.** — 1981 Ed., § 6-751.10.

**Effect of amendments.** — D.C. Law 15-354, in subsec. (f), substituted "Office of Administrative Hearings ('Office')" for "Board of Appeals and Review" in the first sentence, substituted "Office of Administrative Hearings ('Office')" for "Board of Appeals and Review" in

the second sentence, and substituted "Office" for "Board" in the third sentence.

**Legislative history of Law 2-70.** — For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 8-103.06.

**§ 8-411. Administration and enforcement; adoption of regulations.**

(a) The Mayor shall administer and enforce the provisions of this chapter, and is authorized to promulgate, rescind, and amend regulations, after a public hearing following due notice in conformance with the provisions of subchapter I of Chapter 5 of Title 2, to carry out the provisions of this chapter.

(b) The Mayor is authorized, after a public hearing following due notice, to declare any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganism on or in living man or other living animals) which is injurious to the environment or the health of man or other animals to be a pest.

(c) The Mayor is authorized to prescribe pesticides and equipment to be used; restrict or prohibit the use of such materials to the extent necessary to protect the public health and safety; and to take such other action as he may deem necessary to prevent any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(d) When the Mayor has reasonable cause to believe a pesticide or device is being distributed, stored, transported, offered for sale, or used in violation of any of the provisions of this chapter, or any of the regulations prescribed under the authority of this chapter, he may issue a written "stop sale, use, or removal" order to the owner or custodian of any such pesticide or device, and after receipt of such order no person shall sell, use, or remove the pesticide or device described in the order except in accordance with the provisions of the order.

(e) Any pesticide or device that is being transported, or having been transported is sold or offered for sale in the District, or is imported from a foreign country, in violation of any of the provisions of this chapter, may be proceeded against in any court of competent jurisdiction by a process in rem for condemnation if:

(1) In the case of a pesticide, (A) it is adulterated or misbranded; (B) it is not registered pursuant to the provisions of this chapter; (C) its labeling fails to bear the information required by the FIFRA; (D) it is not colored or discolored and such coloring or discoloring is required under the FIFRA; or (E) any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration;

(2) In case of a device, it is misbranded; or

(3) In the case of a pesticide or device, when used in accordance with the requirements imposed under this chapter and as directed by the labeling, it nevertheless causes unreasonable adverse effects on the environment. In the case of a plant regulator, defoliant, or desiccant, used in accordance with the label claim and recommendations, physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when such effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.

(f) If the pesticide or device is condemned, it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct, and the proceeds,



if sold, less the court costs, shall be paid into the District Treasury and credited to the general fund; provided, that the pesticide or device shall not be sold contrary to the provisions of this chapter, the FIFRA, or the laws of the jurisdiction in which it is sold; provided further, that upon payment of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned upon assurances that the pesticide shall not be sold or otherwise disposed of contrary to the provisions of this subchapter, the FIFRA, or the laws of any jurisdiction in which it is sold, the court may direct that such pesticide or device be delivered to the owner thereof. The proceedings of such condemnation cases shall conform, as near as may be to the proceedings used for the condemnation of insanitary buildings under § 6-903.

(g) When a decree of condemnation is entered against the pesticide or device, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

(h) Nothing in this chapter shall be construed as requiring the District to prosecute or institute other proceedings for minor violations of the chapter whenever the Mayor believes that the public interest will be best served by a suitable notice in writing to the alleged violator.

(i) The Mayor may bring an action to enjoin the violation or threatened violation of any provision of this chapter or any regulation made pursuant to this chapter.

(j) In order to comply with section 4 of the FIFRA [7 U.S.C. § 136b], the Mayor is authorized to make such reports to the Environmental Protection Agency in the form and containing the information as the Administrator may from time to time require.

(Apr. 18, 1978, D.C. Law 2-70, § 12, 24 DCR 6867.)

**Prior Codifications.** — 1981 Ed., § 6-751.11.

**Legislative history of Law 2-70.** — For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Editor's notes.** — Section 12(d) of D.C. Law 19-191 amended subsection (a) of this section.

Section 14(a) of D.C. Law 19-191 provided that §§ 1 through 5 and 8 through 13 of the act shall apply as of October 1, 2013.

## § 8-412. Enforcement.

(a) For the purpose of carrying out the provisions of this chapter, the Mayor may enter upon any public or private land in a reasonable and lawful manner during normal business hours for purposes of sampling, inspection, and observation.

(b) If denied access to any land, the Mayor may apply to a court of competent jurisdiction for a search warrant.

(c) The Mayor, or any person, may bring an action in the Superior Court of the District of Columbia to enjoin the violation or threatened violation of any provision of this chapter or of any rules or regulation promulgated thereto.

(Apr. 18, 1978, D.C. Law 2-70, § 13, 24 DCR 6867.)

**Prior Codifications.** — 1981 Ed., § 6-751.12. legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Legislative history of Law 2-70.** — For

### § 8-413. Reports of pesticide accidents or losses.

The Mayor may require the reporting of significant pesticide accidents or incidents to a designated District agency.

(Apr. 18, 1978, D.C. Law 2-70, § 14, 24 DCR 6867.)

**Prior Codifications.** — 1981 Ed., § 6-751.13. legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Legislative history of Law 2-70.** — For

### § 8-414. Storage and disposal.

No person shall transport, store, or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects, or as to pollute any waterway in a way harmful to any wildlife therein. The Mayor shall publish regulations for the storage and disposal of pesticides and pesticide containers.

(Apr. 18, 1978, D.C. Law 2-70, § 15, 24 DCR 6867.)

**Prior Codifications.** — 1981 Ed., § 6-751.14. legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Legislative history of Law 2-70.** — For

### § 8-415. Reciprocity.

The Mayor may waive all or part of any applicator certification examination required by this chapter and issue a license to a nonresident of the District of Columbia who is certified by a state under a certification plan that has been approved by the Administrator and which is substantially in accordance with the provisions of this chapter; provided, that such state has a reciprocity provision granting similar accommodation to applicators certified by the District of Columbia. Certifications issued pursuant to this section may be suspended or revoked in the same manner and on the same grounds as other certifications issued pursuant to this chapter, or upon suspension or revocation of the applicator's certification by the state, issuing the applicator's original certification.

(Apr. 18, 1978, D.C. Law 2-70, § 16, 24 DCR 6867.)

**Prior Codifications.** — 1981 Ed., § 6-751.15. legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Legislative history of Law 2-70.** — For

### § 8-416. Cooperative agreements.

The Mayor may cooperate, receive grants-in-aid, and enter into agreements with any agency of the Federal Government or the District, or with any agency

of a state, to obtain assistance in the implementation of this chapter, or in the enforcement of the FIFRA.

(Apr. 18, 1978, D.C. Law 2-70, § 17, 24 DCR 6867.)

**Prior Codifications.** — 1981 Ed., § 6-751.16. legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Legislative history of Law 2-70.** — For

## § 8-417. Unlawful acts.

It shall be unlawful for any person to:

(a) Make a pesticide recommendation or use a pesticide in a manner inconsistent with the labeling thereof, or in violation of the restrictions imposed by the Environmental Protection Agency or the Mayor on the use of that pesticide;

(b) Falsify, or refuse or neglect to maintain or make available, records required to be kept by this chapter and by the rules and regulations promulgated pursuant thereto;

(c) Use fraud or misrepresentation in applying for certification or a license;

(d) Refuse or neglect to comply with any limitations or restrictions on his certification or license;

(e) Make false or fraudulent claims through any media which misrepresent the effect of a pesticide or the method to be utilized in the application of a pesticide;

(f) Apply any known ineffective or improper pesticide;

(g) Operate faulty or unsafe equipment;

(h) Use or supervise the use of a pesticide in a faulty, careless, or negligent manner;

(i) Make false or fraudulent records, invoices, or reports;

(j) Aid, abet, or conspire with any other person to evade the provisions of this chapter;

(k) Make fraudulent or misleading statements during or after an inspection concerning a pest infestation;

(l) Impersonate any federal, state, or District inspector or official;

(m) Distribute any pesticide which is adulterated or misbranded, or any device which is misbranded;

(n) Fail to register a pesticide in accordance with the provisions of this chapter;

(o) Violate any other provision of this chapter or of any rule or regulation promulgated by the Mayor pursuant thereto.

(Apr. 18, 1978, D.C. Law 2-70, § 18, 24 DCR 6867.)

**Section references.** — This section is referenced in § 8-410.

**Prior Codifications.** — 1981 Ed., § 6-751.17.

**Legislative history of Law 2-70.** — For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.



## § 8-418. Penalties.

Any person violating any provision of this chapter or of any rule or regulation promulgated pursuant thereto, shall, upon conviction, be fined not more than three hundred dollars (\$300) or be imprisoned for not more than ninety (90) days, or both. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(Apr. 18, 1978, D.C. Law 2-70, § 19, 24 DCR 6867; Oct. 5, 1985, D.C. Law 6-42, § 414, 32 DCR 4450.)

**Prior Codifications.** — 1981 Ed., § 6-751.18.

**Legislative history of Law 2-70.** — For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

**Editor's notes.** — Section 12(e) of D.C. Law 19-191 amended this section.

Section 14(a) of D.C. Law 19-191 provided that §§ 1 through 5 and 8 through 13 of the act shall apply as of October 1, 2013.

## § 8-419. Severability.

If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this chapter and applicability thereof to other persons and circumstances shall not be affected thereby.

(Apr. 18, 1978, D.C. Law 2-70, § 20, 24 DCR 6867.)

**Prior Codifications.** — 1981 Ed., § 6-751.19.

**Legislative history of Law 2-70.** — For

legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

## CHAPTER 5. MANUFACTURE, RENOVATION, AND SALE OF MATTRESSES.

Sec.

8-501. Definitions.

8-502. Unlawful acts.

8-503. Label requirements.

8-504. Guaranty of manufacturer as defense;  
prosecution of manufacturer outside District.

Sec.

8-505. Violations of § 8-502, § 8-504, or § 8-507.

8-506. Administration of chapter.

8-507. Investigations.

8-508. Seizure and destruction of mattresses.

## § 8-501. Definitions.

As used in this chapter:

(1) The term "mattress" includes any quilt, comfort, pad, pillow, cushion, or bag stuffed with hair, down, feathers, wool, cotton, excelsior, jute, or any other soft material and designed for use for sleeping or reclining purposes.

(2) The term "person" means individual, partnership, corporation, or association.

(3) The term "Mayor" means the Mayor of the District of Columbia.

(July 3, 1926, 44 Stat. 838, ch. 768, § 1.)

**Prior Codifications.** — 1981 Ed., § 6-801.  
1973 Ed., § 6-601.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 8-502. Unlawful acts.

No person in the District of Columbia:

(1) Who is a manufacturer or renovator of, or dealer in, mattresses shall sell, exchange, give away, or offer or have in his possession for sale, exchange, or gift, any mattress which bears any false or misleading label, statement, design, or device, in respect of its material or processes of manufacture or renovation, or which is not labeled as provided in § 8-503;

(2) Who is a renovator of mattresses shall use in whole or in part, in the renovation of any mattress, material which has formed part of any mattress theretofore used in or about any sanitarium or hospital, or used by any individual having an infectious or contagious disease;

(3) Who is a manufacturer of mattresses shall use in whole or in part any secondhand material in the manufacture of mattresses sold, exchanged, or given away, or to be offered for sale, exchange, or gift, as new mattresses;

(4) Shall knowingly sell, exchange, give away, or offer or have in his possession for sale, exchange, or gift:

(A) Any mattress which has been used, or is composed in whole or in

part from material which has formed part of any mattress theretofore used in any sanitarium or hospital or by any individual having an infectious or contagious disease; or

(B) Any mattress which is composed in whole or in part of secondhand material which has not been thoroughly sterilized and disinfected by a process approved by the Director of the Department of Human Services of the District of Columbia;

(5) Who is a manufacturer or renovator of, or a dealer in, mattresses, shall remove, conceal, or deface, or cause or permit to be removed, concealed, or defaced, any label placed, in accordance with the provisions of this chapter, upon any mattress.

(July 3, 1926, 44 Stat. 838, ch. 768, § 2; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1.)

**Section references.** — This section is referenced in § 8-503 and § 8-505.

**Prior Codifications.** — 1981 Ed., § 6-802. 1973 Ed., § 6-602.

## § 8-503. Label requirements.

The label required by § 8-502 shall consist of a tag which shall be sewed or otherwise securely attached to the mattress. In case the mattress has not been renovated the label shall contain in plain, legible print in the English language a statement showing: (1) the name and address of the manufacturer; (2) a description of the materials used in the manufacture of such mattress; and (3) whether such materials are in whole or in part secondhand. In case the mattress has been renovated the label shall contain in such print the word "Renovated" and a statement of: (1) the name and address of the renovator; and (2) a description of the materials used in the renovated mattress. For the purposes of this chapter the materials so used shall be described in such manner as the Council of the District of Columbia shall by regulation prescribe.

(July 3, 1926, 44 Stat. 839, ch. 768, § 3.)

**Section references.** — This section is referenced in § 8-502.

**Prior Codifications.** — 1981 Ed., § 6-803. 1973 Ed., § 6-603.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(142) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia

Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.



### § 8-504. Guaranty of manufacturer as defense; prosecution of manufacturer outside District.

No dealer shall be prosecuted under the provisions of this chapter when he can establish a guaranty signed by the manufacturer residing in the United States from whom he purchases mattresses to the effect that the statements contained on the labels attached to such mattresses are true. Such guaranty, to afford protection, shall contain the name and address of the manufacturer making the sale of such mattresses to the dealer, and in such case the manufacturer shall be amenable to the prosecutions, fines, and other penalties which would attach, in due course, to the dealer under the provisions of this chapter. In case the manufacturer resides outside the District of Columbia it shall be the duty of each United States Attorney to whom the Director of the Department of Human Services of the District of Columbia shall report the violation to cause appropriate proceedings to be commenced and prosecuted against the manufacturer without delay in the proper courts of the United States.

(July 3, 1926, 44 Stat. 839, ch. 768, § 4; June 25, 1948, 62 Stat. 909, ch. 646, § 1; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1.)

**Section references.** — This section is referenced in § 8-505.

**Prior Codifications.** — 1981 Ed., § 6-804. 1973 Ed., § 6-604.

### § 8-505. Violations of § 8-502, § 8-504, or § 8-507.

Any person violating any provision of § 8-502 or § 8-507 shall, upon conviction thereof, be punished by a fine of not more than \$500, or by imprisonment for not more than 6 months, or both. All prosecutions under this chapter, except as provided in § 8-504, shall be in the Superior Court of the District of Columbia upon information by the Corporation Counsel or 1 of his assistants. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of § 8-502 or § 8-507, or any rules or regulations issued under the authority of these sections, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of these sections shall be pursuant to Chapter 18 of Title 2.

(July 3, 1926, 44 Stat. 839, ch. 768, § 5; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); Oct. 5, 1985, D.C. Law 6-42, § 459, 32 DCR 4450.)

**Section references.** — This section is referenced in § 8-506.

**Legislative history of Law 6-42.** — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 2-1801.01.

**Prior Codifications.** — 1981 Ed., § 6-805. 1973 Ed., § 6-605.

### § 8-506. Administration of chapter.

Except as provided in § 8-505, the administration of this chapter shall be in charge of the Director of the Department of Human Services of the District of Columbia under the supervision of the Mayor. The Mayor is authorized to

make such regulations as may be necessary for the efficient administration of this chapter.

(July 3, 1926, 44 Stat. 839, ch. 768, § 6; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1.)

**Prior Codifications.** — 1981 Ed., § 6-806. 1973 Ed., § 6-606.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 8-507. Investigations.

It shall be the duty of the Director of the Department of Human Services of the District of Columbia, whenever he has reason to believe that any provision of this chapter is being or has been violated, to cause an investigation to be made. For the purpose of such investigation the Director of the Department of Human Services, or any of his assistants designated by him in writing, shall have authority at all times during the ordinary business hours to enter any building or other place in the District of Columbia where mattresses are manufactured, renovated, or held for sale, exchange, or gift, or delivery in pursuance thereof. No person shall refuse or obstruct such inspection. Evidence obtained by the Director of the Department of Human Services or his assistants of any violations of this chapter shall be furnished the Corporation Counsel.

(July 3, 1926, 44 Stat. 839, ch. 768, § 7; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1.)

**Section references.** — This section is referenced in § 8-505.

**Prior Codifications.** — 1981 Ed., § 6-807. 1973 Ed., § 6-607.

## § 8-508. Seizure and destruction of mattresses.

If on inspection the Director of the Department of Human Services or his assistants find in the District of Columbia any mattress held for sale, exchange, or gift, or delivery in pursuance thereof, which has been used or is composed in whole or in part of materials which have formed part of any mattress used in or about any sanitarium or hospital or by any individual having an infectious or contagious disease, or is composed in whole or in part of secondhand material which has not been thoroughly sterilized and disinfected by a process approved by the Director of the Department of Human Services, or if the Director of the Department of Human Services or his assistants find in the District of Columbia any such materials held for use in

the manufacture or renovation of any mattress, the Director of the Department of Human Services shall, after first making and filing in the public records of his office a written order stating the reason therefor, thereupon without further notice cause such mattress or material intended to be used in the manufacture of any mattress to be seized, removed, and destroyed by summary action.

(July 3, 1926, 44 Stat. 839, ch. 768, § 8; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1.)

**Prior Codifications.** — 1981 Ed., § 6-808.      1973 Ed., § 6-608.



## CHAPTER 6. PRIVIES.

Sec.

8-601. Waterclosets required.

8-602. Permit required to maintain privy.

Sec.

8-603. Regulation of waste disposal systems.

8-604. Penalties.

### § 8-601. Waterclosets required.

It shall be unlawful for any person or persons to maintain, upon any original lot or any subdivisional lot, situated on any street in the District of Columbia, where there is a public sewer and watermain available for the use of such lot, any system of disposal of human excreta except by means of waterclosets connected with such sewer and watermain.

(Apr. 22, 1940, 54 Stat. 155, ch. 131, § 2.)

**Prior Codifications.** — 1981 Ed., § 6-601.

1973 Ed., § 6-701.

#### CASE NOTES

##### In general.

Where sewer was available in 1939, but no notice was given by District to connect to sewer until October, 1946, purchasers to whom home was conveyed in 1943 would have no right of action against vendors for breach of contract provision requiring vendors to comply with all notices of violations against or affecting property at date of settlement. D.C. Code 1940, §§ 6-401 to 6-403, 6-701. *Kraft v. Lowe*, 77 A.2d 554, 1950 D.C. App. LEXIS 208 (Cr.App. 1950).

Where purchaser asked vendor particularly

about wiring and plumbing in house and vendor replied that it was all right but said nothing about fact that plumbing was connected to septic tank rather than to public sewer, vendor's conduct would give purchaser right of action for deceit on part of vendor, when failure to disclose fact was considered in connection with code sections requiring connection to be made with public sewers. D.C. Code 1940, §§ 6-401 to 6-403, 6-701. *Kraft v. Lowe*, 77 A.2d 554, 1950 D.C. App. LEXIS 208 (Cr.App. 1950).

### § 8-602. Permit required to maintain privy.

No person shall, in the District of Columbia, erect or maintain a privy, or other means or system for the disposal of human excreta, except by means of waterclosets connected with a sewer and watermain, without having secured from the Director of the Department of Human Services a permit so to do.

(Apr. 22, 1940, 54 Stat. 155, ch. 131, § 3; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1.)

**Prior Codifications.** — 1981 Ed., § 6-602.  
1973 Ed., § 6-702.

**Editor's notes.** — Office of Director of Public

Health abolished: See Historical and Statutory Notes following § 7-101.

### § 8-603. Regulation of waste disposal systems.

The Council of the District of Columbia is hereby authorized and empowered to make, and the Mayor of the District of Columbia is hereby authorized and empowered to enforce, any such regulations as the Council deems necessary to regulate the design, construction, and maintenance of any system of disposal of human excreta, and the handling, storage, treatment, and disposal of human body wastes.

(Apr. 22, 1940, 54 Stat. 155, ch. 131, § 4.)

**Prior Codifications.** — 1981 Ed., § 6-603. 1973 Ed., § 6-703.

**New implementing regulations.** — New implementing regulations: Pursuant to this section, the following new regulations were adopted in 1982: The “District of Columbia Solid Waste Disposal Fee Act of 1982” (D.C. Law 4-135, August 14, 1982, 29 DCR 2751).

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(143) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 8-604. Penalties.

Any person who shall violate or aid or abet in violating any of the provisions of this chapter or of the regulations promulgated by the Council of the District of Columbia under this chapter shall be punished by a fine of not more than \$50 or by imprisonment for not exceeding 15 days. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(Apr. 22, 1940, 54 Stat. 155, ch. 131, § 5; Oct. 5, 1985, D.C. Law 6-42, § 449, 32 DCR 4450.)

**Prior Codifications.** — 1981 Ed., § 6-604. 1973 Ed., § 6-704.

**Legislative history of Law 6-42.** — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmen-

tal Organization in Volume 1). Section 402(143) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CHAPTER 6A. BROWNFIELD REVITALIZATION.

*Subchapter I. Purposes, Findings, Definitions*

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*Subchapter VIII. Rules, Fiscal Impact, Effective Date*

- 8-638.01. Rules.

*Subchapter I. Purposes, Findings, Definitions.*

**§ 8-631.01. Findings and declaration of purpose.**

The Council finds that the public interest is best served when the public health and the environment are protected by the cleanup of contaminated properties. Accordingly, the Council declares its policy is to:

- (1) Create incentives for the voluntary cleanup and redevelopment of contaminated property;
- (2) Develop effective and consistent cleanup standards and processes;
- (3) Ensure public involvement in the cleanup and redevelopment of contaminated properties;
- (4) Ensure that those responsible for the contamination of a property are held accountable;
- (5) Promote economic development by encouraging the reuse of contaminated properties;
- (6) Eliminate public health and environmental risks on properties;
- (7) Ensure the cleanup of contaminated properties is coordinated with plans for redevelopment and the sustainable reuse of the properties;
- (8) Provide for a comprehensive program to consistently and fairly assess the cleanup of contaminated properties; and
- (9) Provide for regulatory and voluntary cleanup programs.

(June 13, 2001, D.C. Law 13-312, § 101, 48 DCR 3804.)



**Legislative history of Law 13-312.** — Law 13-312, the “Brownfield Revitalization Amendment Act of 2000”, was introduced in Council and assigned Bill No. 13-531, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first

and second readings on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on January 22, 2001, it was assigned Act No. 13-576 and transmitted to both Houses of Congress for its review. D.C. Law 13-312 became effective on June 13, 2001.

### CASE NOTES

#### Intervention.

Allowing three environmental groups to permissively intervene to challenge proposed consent decree in District of Columbia’s (D.C.’s) suit against power company, which decree required company to conduct and pay for remedial investigation and feasibility study (RI/FS) in relation to alleged toxins release into river, was unwarranted, where intervention was likely to cause undue delay in adjudicating original parties’ rights as to consent decree and as to ultimate resolution of action. *District of Columbia v. Potomac Elec. Power Co.*, 826 F.Supp.2d 227, 2011 U.S. Dist. LEXIS 138317 (2011).

Disposing by consent decree of District of Columbia’s (D.C.’s) suit against power company, alleging violation of federal and D.C. District of Columbia v. Potomac Elec. Power Co., 826 F.Supp.2d 227, 2011 U.S. Dist. LEXIS 138317 (2011).

Denying three environmental groups’ motion to intervene as of right to challenge proposed consent decree in District of Columbia’s (D.C.’s) suit against power company, alleging violation of federal and D.C. District of Columbia v. Potomac Elec. Power Co., 826 F.Supp.2d 227, 2011 U.S. Dist. LEXIS 138317 (2011).

## § 8-631.02. Definitions.

For the purposes of this chapter, the term:

(1) “Applicant” means a person who submits an application to participate in the Voluntary Cleanup Program established by § 8-633.01.

(1A) “Bona fide prospective purchaser” means a person, or tenant of a person, who acquires ownership of a facility after June 13, 2001 and establishes by a preponderance of the evidence that:

(A) All disposal of hazardous substances at the facility occurred before the person acquired the facility;

(B) The person undertook, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability, taking into account any specialized knowledge or experience on the part of the person, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate inspection; provided, that in the case of property in residential or other similar use at the time of purchase by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph;

(C) The person provides all legally required notices with respect to the discovery or release of any hazardous substances at the facility;

(D) The person exercises appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to:

(i) Stop any continuing release;

(ii) Prevent any threatened future release; and

(iii) Prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance;

(E) The person provides full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at a vessel or facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions or natural resource restoration at the vessel or facility);

(F) The person is in compliance with any institutional controls established or relied on in connection with the response action at the facility;

(G) The person does not impede the effectiveness or integrity of any institutional control employed at the facility in connection with a response action;

(H) The person complies with any request for information or administrative subpoena issued by the Mayor under this chapter;

(I) The person is not potentially liable, or affiliated with any other person that is potentially liable, for response costs at the facility through a familial, contractual, corporate, or financial relationship, other than a contractual, corporate, or financial relationship that is created by the instruments by which title to the facility is conveyed or financed or by a contract for the sale of goods or services; and

(J) The person is not the result of a reorganization of a business entity that was potentially liable; provided, that a bona fide prospective purchaser may know, or have reason to know, of the contamination at the facility at or before the time of acquisition and still be eligible for a defense to liability under this chapter.

(2) "Brownfield" means abandoned, idled property or industrial property where expansion or redevelopment is complicated by actual or perceived environmental contamination.

(3) "Contamination" means a release, discharge, or threatened release of a hazardous substance.

(4) "DDOE" means the District Department of the Environment.

(5) "Eligible property" means a brownfield or any contaminated property that is not listed on the National Priority List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, approved December 11, 1980 (94 Stat. 2767; 42 U.S.C. § 9601 et seq.), and is not the subject of a current cleanup action by the Environmental Protection Agency or the DDOE.

(6) "EPA" means the United States Environmental Protection Agency or its successor agency.

(6A)(A) "Facility" means:

(i) A building, structure, installation, equipment, pipe, pipeline (including any pipe into a sewer or publicly-owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or

(ii) A site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.



(B) The term “facility” shall not include a consumer product in consumer use or any vessel.

(7) “Federal Act” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, approved December 11, 1980 (94 Stat. 2767; 42 U.S.C. § 9601 et seq.).

(8) “Hazardous substance” means any substance designated as a hazardous substance pursuant to section 101(14) of the Federal Act [42 U.S.C. § 9601(14)], or any substance identified as a hazardous substance by the DDOE in regulations adopted pursuant to this chapter.

(8A) “Hazardous Substances Response Plan” means the Mayor’s plan, including policies and procedures, for responding to, and evaluating, hazardous substance releases that may threaten public health, welfare, and the environment, and that is consistent with the provisions of this chapter.

(9) “Non-responsible person” means a person:

(A) With no prior or current ownership interest in an eligible property at the time of making application to participate in the Voluntary Cleanup Program, and who has not caused or contributed to the contamination of an eligible property; or

(B) Who is a successor in interest in an eligible property acquired from a non-responsible person, if the successor in interest does not have a prior ownership in the eligible property and is not otherwise a responsible person concerning the eligible property other than by virtue of ownership of the eligible property.

(10) “Institutional control” means any legal, institutional, or administrative mechanisms meant to prevent contamination or the potential exposure to hazardous substances, including any measure to ensure that use of the property, after completion of response or cleanup action pursuant to this chapter, remains in conformity with the levels of any residual hazardous substance left on the property.

(11) “Participant” means an applicant accepted into the Voluntary Cleanup Program.

(12) “Person” means any individual, partnership, corporation, trust, association, firm, joint-stock company, organization, commission, independent authority of the District government, or District, state, or federal government agency.

(13) “Program” means the Voluntary Cleanup Program established pursuant to § 8-633.01.

(14) “Release” means the addition, introduction, leaking, pumping, spilling, emitting, discharging, escaping, dumping, injecting, disposing or leaching of any hazardous substance into the environment, including the abandoning or discarding of barrels, containers, and other closed receptacles containing any hazardous substance.

(14A) “Response” means an action necessary to cleanup or otherwise prevent, minimize, or mitigate damage to the public health or welfare or to the environment from the release or threatened release of a hazardous substance, including a temporary or permanent measure and related enforcement activity.



(15) “Responsible person” means a person who is liable pursuant to § 8-632.01.

(June 13, 2001, D.C. Law 13-312, § 102, 48 DCR 3804; Mar. 13, 2004, D.C. Law 15-105, § 51, 51 DCR 881; Apr. 8, 2011, D.C. Law 18-369, § 2(a), (b), 58 DCR 996.)

**Effect of amendments.** — D.C. Law 15-105, in par. (12), validated a previously made technical correction.

D.C. Law 18-369 substituted “DDOE” for “EHA” throughout the section; added pars. (1A), (6A), (8A), and (14A); rewrote par. (4); in par. (12), substituted “independent authority of the District government, or District, state, or federal government agency” for “or government agency”. Prior to amendment, par. (4) read as follows: “(4) ‘EHA’ means the District’s Environmental Health Administration or its successor agency.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a), (b) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 15-105.** — Law 15-105, the “Technical Amendments Act of

2003”, was introduced in Council and assigned Bill No. 15-437, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 2003, and December 2, 2003, respectively. Signed by the Mayor on January 6, 2004, it was assigned Act No. 15-291 and transmitted to both Houses of Congress for its review. D.C. Law 15-105 became effective on March 13, 2004.

**Legislative history of Law 18-369.** — Law 18-369, the “Brownfield Revitalization Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-1092, which was referred to the Committee Government Operations and the Environment. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 27, 2011, it was assigned Act No. 18-720 and transmitted to both Houses of Congress for its review. D.C. Law 18-369 became effective on April 8, 2011.

## *Subchapter II. Liabilities and Defenses.*

### § 8-632.01. Liabilities.

(a) It shall be unlawful to release any hazardous substance in the District, unless the release is in quantities permitted by federal or District law or by regulations promulgated by the Mayor to implement this chapter. A lawful release of a hazardous substance shall be reported to the Mayor within 24 hours of the release. The notification to the Mayor shall state the location and condition of the property where the hazardous substance was released and the type of hazardous substance that was released. A violation of this subsection shall be punishable by a fine not to exceed \$50,000 or imprisonment not to exceed 5 years, or both. Each violation of this subsection shall constitute a separate offense and the penalties prescribed in this subsection shall apply separately to each offense.

(b) A responsible person shall be strictly liable, jointly and severally, for:

(1) The costs, including the interest on the costs, of an abatement action;

(2) The costs of a remedial cleanup and a health or any other risk assessment;

(3) The costs of any other response action; and

(4) Damages for injury to, destruction of, or loss of natural resources, including the reasonable cost of assessing the injury, destruction, or loss resulting from the release of the hazardous substance.

(c) For the purposes of this chapter, “a responsible person” is a person who,

with regard to a property from which there is a release or threatened release of a hazardous substance that causes or contributes to the incurrence of a response cost:

- (1) Is the owner or operator;
- (2) At the time of contamination, was the owner or operator;
- (3) By contract, or an agreement, arranged for the release, disposal or treatment of a hazardous substance on a property;
- (4) Arranged for, or was responsible for the transportation of a hazardous substance for release, disposal or treatment at a property;
- (5) By an act or an omission, caused or contributed to the contamination of a property if at the time of the act or omission, the person knew or had reason to know that the act or omission would cause the contamination of the property; or
- (6) Knew or had reason to know that a property is contaminated and transferred ownership of the contaminated property after June 13, 2001, except if it is established by a preponderance of the evidence that the person did not participate in the management of the property, did not directly cause the contamination, and that the person:
  - (A) Acquired the contaminated property by inheritance or bequest;
  - (B) Holds ownership in the contaminated property or in property located on the contaminated property primarily to protect a valid and enforceable lien;
  - (C) Is a holder of a valid mortgage or deed of trust on a contaminated property, or a holder of a security interest in property located on a contaminated property;
  - (D) Is a fiduciary who has legal title to a contaminated property or to a property located on a contaminated property for purposes of administering an estate or trust of which the contaminated property or a property located on the contaminated property is a part;
  - (E) Is a holder of a mortgage or deed of trust who acquired title to a contaminated property through foreclosure, deed in lieu of foreclosure, or a tax sale;
  - (F) Except in the case of gross negligence or willful misconduct is an agency of the District government;
  - (G) Is a lender who extends credit for the performance of voluntary cleanup actions performed in accordance with the requirements of this chapter; or
  - (H) Is a lender who takes action to protect or preserve a mortgage or a deed of trust on a contaminated property or a security interest in property located on a contaminated property, by stabilizing, containing, removing, or preventing the contamination in a manner that does not cause or contribute to a contamination or significantly increase the threat of contamination. The lender must provide advance written notice of its actions to DDOE, or in the event of an emergency in which action is required within 12 hours, provides notice by telephone. The lender, prior to taking the action, is not a responsible party, and the action taken does not violate any provision of this chapter. Except that if the lender shall contribute to or cause further contamination to



the property while taking any action pursuant to this subparagraph, the lender shall be liable solely for costs incurred as a result of the contamination which the lender caused or to which the lender contributed.

(7) A person shall not be considered a responsible person by virtue of conducting an environmental assessment on a property.

(d) To establish that a person did not know or did not have reason to know, as provided in subsections (c)(5) and (6) of this section, the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability. To determine that a person did not know or did not have reason to know, a court shall consider any specialized knowledge or experience on the part of the person, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or the likely presence of contamination at the property, and the ability to detect such contamination by appropriate inspection.

(June 13, 2001, D.C. Law 13-312, § 201, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(a), (c), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-631.02, § 8-632.02, § 8-633.08, § 8-634.02, and § 8-634.09.

**Effect of amendments.** — D.C. Law 18-369 substituted “DDOE” for EHA”; rewrote subsec. (b); in the lead-in text of subsec. (c), substituted “who, with regard to a property from which there is a release or threatened release of a hazardous substance that causes or contributes to the incurrence of a response cost” for “who”; and, in subsec. (c)(1) and (2), substituted “operator” for “operator of a contaminated property”. Prior to amendment, subsec. (b) read as follows: “(b) Any person who causes or contributes to the contamination of a property shall be strictly, jointly and severally, liable for the costs, including the interests on the costs of abatement actions, remedial cleanup, health or

any other risk assessment or any other responsive actions taken by the District.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a), (c) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

**Delegation of Authority.** — Delegation of Authority pursuant to D.C. Law 13-312, the “Brownfield Revitalization Amendment Act of 2000”, see Mayor’s Order 2003-41, March 27, 2003 (50 DCR 2898).

## § 8-632.02. Defenses.

(a) A person shall not be liable pursuant to § 8-632.01(b) if the person establishes, by a preponderance of the evidence, that the release or contamination was caused by any of the following:

- (1) An act of God;
- (2) An act of war;
- (3) The migration, flow, or movement of hazardous substances from property owned by a person unrelated to the person asserting the defense;
- (4) An act or omission of an unrelated third party, if reasonable precautions were taken to prevent foreseeable releases;
- (5) An act or omission of a third party if the act or omission was reasonably outside the scope of a prior or an existing contractual relationship



and the person asserting the defense could not have reasonably foreseen or prevented the act or omission; or

(6) An act or omission that occurred prior to the acquisition of the property if due diligence had been exercised in investigating the possible existence of a release or contamination, except that due diligence shall not be required if the property was acquired by inheritance or bequest, through a foreclosure for tax delinquency, or by condemnation for blight or other threats to public health, safety, and welfare.

(b)(1) Notwithstanding § 8-632.01, a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

(2) If there are unrecovered response costs incurred by the District at a facility for which an owner of the facility is not liable by reason of paragraph (1) of this subsection, and if each of the conditions described in paragraph (3) of this subsection is met, the District shall have a lien on the facility, or may by agreement with the owner, obtain from the owner a lien on any other property or other assurance of payment satisfactory to the Mayor, for the unrecovered response costs.

(3) The conditions referred to in paragraph (2) of this subsection are the following:

(A) A response action for which there are unrecovered costs of the District is carried out at the facility; and

(B) The response action increases the fair market value of the facility above the fair market value of the facility that existed before the response action was initiated.

(4) A lien under paragraph (2) of this subsection shall:

(A) Be in an amount not to exceed the increase in fair market value of the property attributable to the response action at the time of a sale or other disposition of the property;

(B) Arise at the time at which costs are first incurred by the District with respect to a response action at the facility;

(C) Be subject to the requirements of subsection (1)(3) [sic] of this section; and

(D) Continue until satisfaction of the lien by sale or other means.

(June 13, 2001, D.C. Law 13-312, § 202, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(d), 58 DCR 996.)

**Effect of amendments.** — D.C. Law 18-369 rewrote the section, which formerly read:

“A person shall not be liable pursuant to § 8-632.01(b), if the person establishes by a preponderance of the evidence, that the release or contamination was caused by any of the following:

“(1) An act of God;

“(2) An act of war;

“(3) The migration, flow, or movement of

hazardous substances from property owned by a person unrelated to the person asserting the defense;

“(4) An act or omission of an unrelated third party, where reasonable precautions were taken to prevent foreseeable releases;

“(5) An act or omission of a third party where the act or omission was reasonably outside the scope of a prior or an existing contractual relationship, and the person asserting the de-

fense could not have reasonably foreseen or prevented the act or omission; or

“(6) An act or omission that occurred prior to the acquisition of the property where due diligence had been exercised in investigating the possible existence of a release or contamination, except that if the property was acquired by inheritance or bequest, or through a foreclosure for tax delinquency or condemnation for blight or other threats to public health, safety, and welfare.”

D.C. Law 18-369 rewrote the section, which formerly read:

“A person shall not be liable pursuant to § 8-632.01(b), if the person establishes by a preponderance of the evidence, that the release or contamination was caused by any of the following:

“(1) An act of God;

“(2) An act of war;

“(3) The migration, flow, or movement of hazardous substances from property owned by a person unrelated to the person asserting the defense;

“(4) An act or omission of an unrelated third party, where reasonable precautions were taken to prevent foreseeable releases;

“(5) An act or omission of a third party where the act or omission was reasonably outside the scope of a prior or an existing contractual relationship, and the person asserting the defense could not have reasonably foreseen or prevented the act or omission; or

“(6) An act or omission that occurred prior to the acquisition of the property where due diligence had been exercised in investigating the possible existence of a release or contamination, except that if the property was acquired by inheritance or bequest, or through a foreclosure for tax delinquency or condemnation for blight or other threats to public health, safety, and welfare.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

### § 8-632.03. Liability of a non-responsible person.

(a) If DDOE approves an applicant’s status as a non-responsible person pursuant to § 8-633.02, the participant’s status as a non-responsible person continues upon acquiring an interest in the eligible property.

(b) Except as provided in subsection (c) of this section, a non-responsible person is not liable for existing contamination at the eligible property.

(c) A non-responsible person shall be liable for new contamination that the person causes or contributes to, and any exacerbation of existing contamination at the eligible property.

(June 13, 2001, D.C. Law 13-312, § 203, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(a), 58 DCR 996.)

**Effect of amendments.** — D.C. Law 18-369 substituted “DDOE” for “EHA” wherever it appeared.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## *Subchapter III. Voluntary Cleanup Program.*

### § 8-633.01. Establishment.

(a) There is hereby established a Voluntary Cleanup Program (“Program”) within DDOE to encourage the private voluntary cleanup of contaminated

properties. The DDOE shall administer the Program and shall be responsible for:

- (1) Investigating brownfield and other properties with known or perceived contamination;
- (2) Determining the eligibility for voluntary cleanups and brownfield redevelopment incentives;
- (3) Protecting the public health and the environment where cleanups are being performed or need to be performed;
- (4) Determining cleanup standards;
- (5) The oversight of cleanup activities; and
- (6) Determining the finality of the cleanup of contaminated properties.

(b) Upon request, the DDOE may assist a person in identifying contaminated properties or brownfields in the District and the available options and programs for their cleanup and redevelopment. The Mayor may assist in or provide supervision for the development and the implementation of reasonable and necessary cleanup or remedial actions. This assistance may include the review of agency records, files, investigation plans, and proposed cleanup plans.

(June 13, 2001, D.C. Law 13-312, § 301, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(a), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-631.02 and § 8-634.08.

**Effect of amendments.** — D.C. Law 18-369 substituted “DDOE” for “EHA” wherever it appeared.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a) of Brownfield Revitalization Emergency Amend-

ment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-633.02. Eligibility and requirements.

(a) In order to participate in the program, a person shall submit, on a form to be provided by DDOE, the following:

- (1) Repealed;
- (2) Information which establishes that the property is an eligible property;
- (3) A detailed report, with all available relevant information on the environmental conditions of the property, including information on contamination known to the applicant at the time of the application;
- (4) An environmental assessment of the property including, the nature and location of all hazardous substances known by the applicant to be present on the contaminated property;
- (5) A descriptive summary of a proposed cleanup action plan that conforms to DDOE cleanup standards; and
- (6) Verifiable information regarding the identity of the true and legal owners of the eligible property.

(b)(1) DDOE shall approve or deny the application within 90 business days of its receipt. A request by DDOE for additional information shall toll the



90-day review period. The review period shall resume upon the receipt of the additional information.

(2) DDOE shall provide written notice to the applicant which states the reasons for denial of an application and shall recommend any corrective actions and the period within which the applicant may resubmit the application. If within the 90-day review period, DDOE does not deny or approve an application, or request additional information from the applicant, the applicant, within 10 days of a request, shall be entitled to a meeting with a designated DDOE official to inquire about the status of the application.

(June 13, 2001, D.C. Law 13-312, § 302, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(a), (e), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-632.03.

**Effect of amendments.** — D.C. Law 18-369 substituted “DDOE” for “EHA” throughout the section; and repealed subsec. (a)(1), which formerly read:

“(1) Information which establishes to the satisfaction of EHA, the status of the applicant as a responsible person or a non-responsible person;”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a), (e) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

### § 8-633.03. Cleanup action plan.

(a) The participant shall submit a cleanup action plan to DDOE, after the approval of an application to participate in the Program. The cleanup action plan shall be in accordance with DDOE cleanup standards and shall be approved or disapproved within 90 business days after its submission. Within that period DDOE shall consider any public comments received pursuant to this chapter and shall notify the participant of its determination.

(b) If the cleanup action is disapproved, DDOE shall include in the notice, the modifications in the cleanup action plan which are necessary to receive an approval. The participant may submit a revised or amended plan within 30 business days after the receipt of the letter of rejection, otherwise the plan shall be considered withdrawn pursuant to § 8-633.07. DDOE shall notify the participant whether the cleanup action plan has been approved, within 30 business days after the receipt of the resubmitted plan.

(c) The approval of a cleanup action plan shall mean that the program participant has granted DDOE an express right to access the eligible property for the purposes of inspecting and verifying the implementation of the cleanup action plan, once that plan has been approved.

(d) The approval of a cleanup action plan shall not:

(1) Prevent the District from taking action against any person to prevent or abate an imminent or substantial endangerment to the public or the environment at the eligible property;

(2) Remain in effect if the response action plan approval letter has been obtained by fraud or a material misrepresentation;

(3) Affect the District’s authority to take action against a responsible

person concerning new contamination or the exacerbation of existing contamination at the eligible property after a cleanup action plan has been approved;

(4) Affect the District's authority to take action against a responsible person concerning previously undiscovered contamination at an eligible property after a cleanup action plan has been approved;

(5) Prevent the District from taking action against any person who is responsible for long-term monitoring and maintenance as provided in the cleanup action plan; or

(6) Prevent the District from taking action against any person who does not comply with conditions on the permissible use of the eligible property contained in the cleanup action plan approval letter.

(e) If a participant fails to meet the schedule for implementation and completion of the cleanup action plan, DDOE may:

(1) Reach an agreement with the participant to revise the schedule of completion in the cleanup action plan; or

(2) Withdraw the approval of the cleanup action plan pursuant to § 8-633.07, if an agreement cannot be reached.

(June 13, 2001, D.C. Law 13-312, § 303, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(a), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-671.01.

**Effect of amendments.** — D.C. Law 18-369 substituted “DDOE” for “EHA” wherever it appeared.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a) of Brownfield Revitalization Emergency Amend-

ment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-633.04. Fees, bonds, and other security of the cleanup action plan.

(a) The Mayor may require an applicant to pay a fee not to exceed \$10,000 upon submission of an application to participate in the Program.

(b) A performance bond, in an amount to be determined by DDOE, as necessary to secure and stabilize the eligible property if the cleanup action plan is not implemented accordingly, shall be posted with DDOE before the participant may perform any cleanup action on the property. The obligation of the performance bond shall be void upon the issuance of a Certificate of Completion to the participant, or 16 months after the date of withdrawal if the participant withdraws from the Program. The obligation of the performance bond shall be due and payable upon notification by the DDOE that action must be taken to fulfill the withdrawal requirements of this chapter to stabilize the property.

(June 13, 2001, D.C. Law 13-312, § 304, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(a), (f), 58 DCR 996.)

**Effect of amendments.** — D.C. Law 18-369 substituted “DDOE” for “EHA” throughout the section; in the section heading, substituted “security of the cleanup action plan” for



"security"; and rewrote subsec. (a), which formerly read:

"(a) An applicant shall pay a \$10,000 fee, upon submission of an application to participate in the Program."

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a), (f) of Brownfield Revitalization Emergency Amend-

ment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-633.05. Cleanup standards.

(a) DDOE shall publish in the District of Columbia Register, within 180 business days of June 13, 2001, cleanup standards for contaminated properties. The cleanup standards shall be based on sound science and acceptable industry standards for the cleanup of contaminated properties to protect public health, welfare, and the environment and shall include the following:

(1) General numerical or performance standards, which describe the concentrations of hazardous substances in groundwater, surface water and soils that will allow a property to be used for any purpose;

(2) The procedures that DDOE shall use to establish and approve site or property-specific standard based on the assessments of health and environmental risks at a property. The standards may rely on engineering or institutional controls protective of public health, welfare and the environment. DDOE may designate and publish the particular engineering controls it deems as protective of public health, welfare and the environment in specified circumstances; and may designate the circumstances as containing presumptive remedies, taking into account the type of hazardous substances on the contaminated property and the proposed use of the property. Applicants claiming presumptive remedies shall not be required to conduct a risk assessment prior to the approval of a cleanup action plan.

(b) Until the cleanup standards required by subsection (a) of this section are adopted, the following guidelines shall apply to voluntary cleanup actions:

(1) The maximum contaminant levels established pursuant to the federal Safe Drinking Water Act, approved December 16, 1974 (88 Stat. 1660; 42 U.S.C. § 300f et seq.) shall be the cleanup standard for groundwater;

(2) The cleanup standards established by DDOE based on the District's environmental policy, law, or regulations in effect prior to June 13, 2001, shall apply to hazardous substances in any other media apart from groundwater; and

(3) For hazardous substances in any media apart from groundwater, for which interim cleaning standards cannot be determined pursuant to paragraphs (1) and (2) of this subsection, the cleanup standards established by the application of risk assessment regulations of the District's leaking underground storage tank program shall apply.

(June 13, 2001, D.C. Law 13-312, § 305, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(a), 58 DCR 996.)

**Effect of amendments.** — D.C. Law 18-369 substituted "DDOE" for "EHA" wherever it appeared.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a) of Brownfield Revitalization Emergency Amend-



ment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-633.06. Certificate of Completion.

(a) The participant shall notify DDOE that the cleanup action plan has been fully implemented, by submitting a cleanup completion report once the cleanup action plan has been completely implemented.

(b) The completion report shall state:

- (1) Sampling results;
- (2) A description of the measures taken to achieve the applicable standards;
- (3) Any engineering and institutional controls used to achieve the applicable standards and the measures that will be necessary to maintain those controls;

(4) A listing of any hazardous substances involved; and

(5) A description of the intended future use of the facility for employment opportunities, housing, open space, recreation or other uses.

(c) DDOE shall review the implementation and completion of the cleanup action plan, and shall issue within 30 business days of the notice pursuant to subsection (a) of this section, a Certificate of Completion, if it determines that the cleanup action plan has been implemented, completed to its satisfaction and has achieved the cleanup criteria.

(d) The Certificate of Completion shall state:

(1) That the requirements of the cleanup action plan have been implemented and that applicable cleanup standards have been met;

(2) That the participant has demonstrated that implementation of the cleanup action plan at the eligible property has achieved the applicable cleanup standard regarding the contamination addressed in the cleanup action plan;

(3) That the participant is released from further liability under this chapter and any other District law or regulation, for the cleanup of the eligible property and for any contamination identified in the environmental assessment of the property, and that the participant shall not be subject to a contribution action instituted by a responsible person;

(4) Whether long-term monitoring and maintenance is necessary for the eligible property;

(5) The permissible uses of the eligible property; and

(6) That the Certificate of Completion is transferable.

(e) DDOE shall send a copy of the Certificate of Completion to the Recorder of Deeds and the Office of Tax and Revenue within 10 business days after its issuance.

(f) If a Certificate of Completion is conditioned on the permissible use of the property for commercial or industrial use, the participant shall record the Certificate of Completion with the Recorder of Deeds within 30 business days after receiving the certificate, or the Certificate of Completion shall be deemed void.

(g) If an owner of an eligible property that has limited permissible uses wants to change the use of the eligible property, the owner, subject to the approval of DDOE, shall be responsible for the cost of cleaning up the property to the appropriate standard.

(h) A requirement for long-term monitoring and maintenance in the approved cleanup action plan shall not delay the issuance of a Certificate of Completion.

(i) A Certificate of Completion shall not:

(1) Prevent the District from taking action against any person or property to prevent or abate an imminent or substantial endangerment to the public or the environment;

(2) Remain in effect if obtained by fraud or a material misrepresentation, or if new information is discovered, within a reasonable time, about a hazardous substance that revises the acceptable risk levels; or if the risk level increases due to land use[;]

(3) Affect the District's authority to take action against any person concerning new contamination or the exacerbation of an existing contamination after a Certificate of Completion has been issued;

(4) Affect the District's authority to take action against any person concerning previously undiscovered contamination at an eligible property after a Certificate of Completion has been issued;

(5) Prevent the District from taking action against any person who is responsible for long-term monitoring and maintenance, for failure to comply with the cleanup action plan or failure to maintain institutional control;

(6) Prevent the District from taking action against any person who does not comply with conditions on the permissible use of the eligible property contained in the Certificate of Completion;

(7) Prevent the District from requiring any person to take further action if the eligible property fails to meet the applicable cleanup criteria set up in the cleanup action plan; or

(8) Affect the planning or zoning authority of the District.

(j) The provisions of this section shall not affect any tort action against the participant.

(June 13, 2001, D.C. Law 13-312, § 306, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(a), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-634.09.

**Effect of amendments.** — D.C. Law 18-369 substituted “DDOE” for “EHA” wherever it appeared.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a) of Brownfield Revitalization Emergency Amend-

ment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-633.07. Withdrawal from the Program.

(a) Except as provided in subsections (b) and (c) of this section, a participant may withdraw from the Program at the time of a pending application or

cleanup action plan, or after receiving a Certificate of Completion. To effectively withdraw from the Program, a participant shall:

(1) Provide a 10-day written notice of the anticipated withdrawal to DDOE;

(2) Stabilize and secure the eligible property, to the satisfaction of DDOE, to ensure the protection of the public health and environment; and

(3) Forfeit any application fees.

(b) If the participant is a non-responsible person, the participant may not be required by DDOE to cleanup the eligible property, but shall be held liable for new contamination or the exacerbation of the existing contamination at the eligible property.

(c) If the participant is a responsible person, DDOE or the Mayor may take any applicable enforcement actions authorized pursuant to this chapter.

(d) In the case of an involuntary withdrawal, where DDOE withdraws the approval of a non-responsible person's cleanup action plan, that person may not be required to cleanup the eligible property, except that the provisions of subsection (a)(1), (2) and (3) and subsection (c) of this section shall apply to the person.

(e) If an application, a cleanup action plan, or a Certificate of Completion is withdrawn, any letter or Certificate of Completion issued pursuant to this chapter shall be void and any bond or other security shall be forfeited.

(June 13, 2001, D.C. Law 13-312, § 307, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(a), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-633.03.

**Effect of amendments.** — D.C. Law 18-369 substituted “DDOE” for “EHA” wherever it appeared.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a) of Brownfield Revitalization Emergency Amend-

ment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-633.08. Clean Land Fund.

(a) There is established, the Clean Land Fund, as a non-lapsing, revolving fund. The Clean Land Fund shall receive and disburse funds from appropriations, income from operations, fees, gifts by devise or bequest, donations, grants, revenues from a source pursuant to the Program, and revenues from other sources generated from enforcement at a contaminated property or from an action taken to prevent contamination, which sources of revenue may include enforcement actions under §§ 8-632.01 and 8-634.06 and cost recoveries under § 8-634.02.

(b) Monies credited and any interest accrued to the fund shall remain available until expended, and shall not revert to the General Fund of the District of Columbia. Subject to appropriations, the Mayor shall use monies in the fund for the administration, improvement and maintenance of the Program, loans and grants made for contaminated property cleanup assistance pursuant to § 8-637.04, other brownfield revitalization incentives established



by this chapter, and other activities associated with the Mayor's cleanup of contaminated property, including the Mayor's oversight and enforcement activity.

(June 13, 2001, D.C. Law 13-312, § 308, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(g), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-637.04.

**Effect of amendments.** — D.C. Law 18-369, in subsec. (a), substituted “revenues from a source pursuant to the Program, and revenues from other sources generated from enforcement at a contaminated property or from an action taken to prevent contamination, which sources of revenue may include enforcement actions under §§ 8-632.01 and 8-634.06 and cost recoveries under § 8-634.02” for “and revenues from any source pursuant to the Program”; and, in subsec. (b), substituted “other brownfield revitalization incentives established by this chapter, and other activities associated

with the Mayor's cleanup of contaminated property, including the Mayor's oversight and enforcement activity” for “and any other brownfield revitalization incentive established by this chapter”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(g) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

#### *Subchapter IV. Hazardous Substance Response.*

### **§ 8-634.01. Response and order authority.**

(a) Upon receipt of information of a threatened or actual release of a hazardous substance, the Mayor may:

(1) Take response action not inconsistent with the Hazardous Substances Response Plan that the Mayor considers necessary to protect the public health or welfare or the environment;

(2) Issue an administrative order to perform a response action that is not inconsistent with the Hazardous Substances Response Plan;

(3) Take action necessary to protect the public health or welfare or the environment from an imminent and substantial threat;

(4) Secure such relief as may be necessary to abate such danger or threat, and the Superior Court of the District of Columbia may grant such relief as the public interest and the equities of the case may require;

(5) Issue an emergency executive order pursuant to Chapter 23 of Title 7 [§ 7-2301 et seq.], as may be necessary to protect the public health or welfare or the environment; and

(6) Issue an administrative order to enforce other provisions of this chapter.

(b) This chapter shall not prevent or impede an immediate response by the Mayor to a contamination or threat of contamination that presents imminent and substantial danger to the public.

(c) A federal, state, local, or District permit shall not be required for the portion of a response action conducted entirely onsite, if the response action is selected and carried out in compliance with this section.

(d) Any response action taken, ordered, or otherwise agreed to by the Mayor shall:

(1) Be protective of public health and welfare and the environment; and  
 (2) Attain a level of cleanup or control that attains legally applicable or relevant and appropriate standards, requirements, criteria, or limitations.

(e) Response actions in which treatment permanently and significantly reduces the volume, toxicity, or mobility of hazardous substances shall be preferred over response actions not involving such treatment.

(f) The Mayor may select a remedial action meeting the requirements of subsection (d) of this section that does not attain a level or standard of control at least the level or equivalent to a legally applicable or relevant and appropriate standard requirement if:

(1) The response action selected is only part of a total response action that will attain the level or standard when complete;

(2) Compliance with the requirement will result in greater risk to human health and the environment than alternative options;

(3) Compliance with the requirement is technically impracticable from an engineering perspective; or

(4) The response action selected will attain a standard of performance that is equivalent to that required under the otherwise applicable standard, requirement, or limitation, through use of another method or approach.

(June 13, 2001, D.C. Law 13-312, § 401, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(i), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-634.05, § 8-634.06, and § 8-636.03.

**Effect of amendments.** — D.C. Law 18-369 rewrote the section, which formerly read:

“Within one year of June 13, 2001, the Mayor shall develop and publish in the District of Columbia Register, a comprehensive hazardous substances response plan which shall include policies and procedures for responding to, and evaluating hazardous substance releases that may threaten public health and the environ-

ment. The response plan shall not be inconsistent with the provisions of this chapter.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(i) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-634.02. Reimbursement for reasonable costs.

(a) A person who receives and complies with the terms of an order issued under this chapter may petition the Mayor for the reimbursement of the reasonable costs of the action, plus interest, from the Clean Land Fund; provided, that:

(1) The required action has been completed to the satisfaction of the Mayor; and

(2) The petition is filed within 60 days of the issuance of a Certificate of Completion by the Mayor.

(b) To obtain reimbursement, the petitioner shall establish by a preponderance of the evidence that:

(1) The petitioner is not liable for response costs under § 8-632.01, and that the costs are reasonable in light of the action required by the relevant order; or

(2)(A) The Mayor's decision in selecting the response action ordered was arbitrary and capricious or was otherwise not in accordance with the law.

(B) Reimbursement under this paragraph shall be limited to reasonable costs incurred under the portions of the order found to be arbitrary and capricious or otherwise not in accordance with the law.

(c) If the Mayor denies all or part of a petition made under this section, the petitioner may file an appeal in the Superior Court of the District of Columbia within 30 days of issuance of the Mayor's decision.

(June 13, 2001, D.C. Law 13-312, § 402, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(j), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-633.08 and § 8-636.03.

**Effect of amendments.** — D.C. Law 18-369 rewrote the section, which formerly read:

"(a) In cases of hazardous substance release or threat of release, or upon receipt of notification pursuant to § 8-632.01, the Mayor shall determine whether there is a present or imminent and substantial threat to the public or the environment. The Mayor may issue an emergency executive order, consistent with the situation, pursuant to Chapter 23 of Title 7. The Mayor shall take any other reasonable and lawful actions necessary to protect public health and the environment from the threats of imminent or immediate contamination.

"(b) Nothing in this chapter shall prevent or impede an immediate response by the Mayor or any responsible person to a contamination or threat of contamination that presents imminent and substantial danger to the public.

"(c) Nothing in this chapter shall prevent or

preclude the Mayor from securing access or obtaining information in any other lawful and reasonable manner. A person required to provide information pursuant to this chapter, may not claim that the information required is entitled to confidentiality protection unless the request for confidentiality is made in writing at the time the information is provided to Mayor."

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(j) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

For temporary (90 day) addition of sections, see § 2(k) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-634.03. Access to information.

(a) The Mayor, upon reasonable notice, may require any person who has or may have responsive information to:

(1) Furnish information or documents relating to:

(A) The identification, nature, and quantity of material that has been or is generated, stored, treated, or disposed of at a facility or transported to a facility;

(B) The nature or extent of the release or threatened release of a hazardous substance from a facility; or

(C) The ability of a person to pay for or perform a cleanup;

(2) Grant the Mayor access at reasonable times to any facility, establishment, place, property, or location to inspect and copy all documents or records relating to matters set forth in paragraph (1) of this subsection; or

(3) Copy or furnish to the Mayor all such documents or records relating to matters set forth in paragraph (1) of this subsection at the expense of the person.

(b)(1) A record, report, or other information obtained from a person under this section shall be available to the public, except upon a showing satisfactory



to the Mayor that the record, report, or other information, or a part thereof, other than health or safety effects data, if made public would divulge methods or processes entitled to protection as a trade secret.

(2) The information, or a portion thereof, shall be considered confidential, except that a record, report, document, or other information may be disclosed by the Mayor when relevant in a proceeding under this chapter.

[(3)] A person required to provide information under this section shall not claim that the information is entitled to protection unless the request for confidentiality is made in writing at the time the record, report, or other information is submitted to the Mayor.

(4) The following information shall not be exempt from disclosure under § 2-534(a)(14):

(A) The trade name, common name, or generic class or category of the hazardous substance;

(B) The physical properties of the hazardous substance, including its boiling point, melting point, flash point, specific gravity, vapor density, solubility in water, and vapor pressure at 20 degrees Celsius;

(C) The hazards to health and the environment posed by the substance, including physical hazards such as explosion, and potential acute and chronic health hazards;

(D) The potential routes of human or ecological exposure to the substance at the facility, establishment, place, or property being investigated, entered, or inspected under this chapter;

(E) The location of disposal of a waste stream;

(F) Monitoring data or analysis of monitoring data pertaining to disposal activities;

(G) Hydrogeologic or geologic data; or

(H) Groundwater monitoring data.

(c) This chapter shall not prevent or preclude the Mayor from securing access or obtaining information in any other lawful and reasonable manner, including by issuing a subpoena to compel the production of information.

(June 13, 2001, D.C. Law 13-312, § 403, as added Apr. 8, 2011, D.C. Law 18-369, § 2(k), 58 DCR 996.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2(k) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-634.04. Entry, inspection, and sampling.

(a) Upon a determination of a threat or an actual release of a hazardous substance that is a threat to the public health, welfare, or the environment, for the purpose of inspection and obtaining samples, the Mayor may enter at reasonable times, and issue orders as necessary to gain entry to, a facility, establishment, or other property if:

(1) A hazardous substance may be, has been, or may have been generated,

stored, treated, released, disposed of, or transported from the facility, establishment, or property; or

(2) Entry is needed to determine the need for response, the appropriate response, or to effectuate a response action under this chapter.

(b) The inspection and entry shall be completed with reasonable promptness.

((June 13, 2001, D.C. Law 13-312, § 404, as added Apr. 8, 2011, D.C. Law 18-369, § 2(k), 58 DCR 996.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2(k) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-634.05. Review.

If the Mayor selects a response action pursuant to § 8-634.01 that results in any hazardous substances remaining at the site, the Mayor shall review the response action no less often than each 5 years after the initiation of the response action to assure that human health and the environment are being protected by the response action being implemented. If, after the review, it is the judgment of the Mayor that action is appropriate at the site in accordance with § 8-634.01, the Mayor shall take or require the action.

(June 13, 2001, D.C. Law 13-312, § 405, as added Apr. 8, 2011, D.C. Law 18-369, § 2(k), 58 DCR 996.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2(k) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-634.06. Civil penalties.

Pursuant to § 8-634.01, a person who:

(1) Violates or fails to comply with an order of the Mayor, permit, or other applicable standard, requirement, regulation, or provisions of law pursuant to this chapter, shall be liable for:

(A) Civil penalties not to exceed \$10,000 for each day of noncompliance; and

(B) An amount equal to 3 times the costs expended resulting from a failure to take proper action; and

(2) Without sufficient cause, willfully violates, fails, or refuses to comply with an order of the Mayor, permit, or other applicable standard, requirement, regulation, or provisions of law pursuant to this chapter, shall be liable for:

(A) Civil penalties not to exceed \$25,000 for each day of noncompliance; and

(B) An amount equal to 3 times the costs expended resulting from a failure to take proper action.

(June 13, 2001, D.C. Law 13-312, § 406, as added Apr. 8, 2011, D.C. Law 18-369, § 2(k), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-633.08.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(k) of Brownfield Revitalization Emergency Amendment Act of

2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-634.07. Judicial actions.

The Mayor may request the Attorney General, and the Attorney General shall have authority, to commence a civil action in the Superior Court of the District of Columbia:

(1) To compel compliance with an order of the Mayor, permit, or other applicable standard, requirement, regulation, or provisions of law pursuant to this chapter;

(2) To recover a response cost or natural resource damage, or for contribution;

(3) To declare future liability for a response cost or damage;

(4) For civil penalties not to exceed \$25,000 for each day of noncompliance against any person who unreasonably fails to comply with an order of the Mayor, permit, or other applicable standards, requirement, regulation, or provision of law pursuant to this chapter; and

(5) For an amount equal to 3 times the costs expended resulting from a failure to take proper action.

(June 13, 2001, D.C. Law 13-312, § 407, as added Apr. 8, 2011, D.C. Law 18-369, § 2(k), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-634.09 and § 8-636.03.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(k) of Brownfield Revitalization Emergency Amendment Act of

2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-634.08. Settlement authority.

(a) The Mayor, in his or her discretion, may enter into an agreement with a person to perform a response action if the Mayor determines that the response action will be properly completed by the person.

(b) The agreement shall be subject to public notice and comment. The Mayor may withdraw or withhold consent to the proposed settlement if comments disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. The parties to the agreement, including the Mayor, may enforce the agreement in the Superior Court of the District of Columbia.

(c) The agreement may include limited covenants not to sue for contamination addressed in compliance with the terms of the agreement and may provide that the person shall not be liable to another person for response costs relating to a contamination addressed in compliance with the terms of the agreement.



(d) The Mayor may find a person eligible to participate in the voluntary cleanup program established under § 8-633.01 as part of an agreement.

(June 13, 2001, D.C. Law 13-312, § 408, as added Apr. 8, 2011, D.C. Law 18-369, § 2(k), 58 DCR 996.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2(k) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-634.09. Contribution action.

(a) A person may seek contribution from another person who is liable under § 8-632.01. The claim shall be brought in the Superior Court of the District of Columbia. In resolving a contribution claim, the court may allocate a response cost among liable parties using the equitable factors as the court determines appropriate.

(b) This section shall not diminish the right of a person to bring an action for contribution in the absence of a civil action under § 8-634.07.

(c) A person who has resolved his, her, or its liability to the District in an administrative or judicially approved settlement, or has been issued a Certificate of Completion under § 8-633.06, shall not be liable for a claim for contribution regarding a matter addressed in the settlement or Certificate of Completion. The settlement or Certificate of Completion shall not discharge another responsible person unless its terms so provide, but it shall reduce liability of the others by the amount of the settlement.

((June 13, 2001, D.C. Law 13-312, § 409, as added Apr. 8, 2011, D.C. Law 18-369, § 2(k), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-636.03.

2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Emergency legislation.** — For temporary (90 day) addition, see § 2(k) of Brownfield Revitalization Emergency Amendment Act of

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-634.10. Statute of limitations.

(a) The provisions of § 12-301(10) notwithstanding, an action by or on behalf of the Mayor to recover the cost of a response action under this section must be commenced within 6 years after the initiation of physical onsite response work.

(b) An action to compel the Mayor or another person to perform a duty brought under this section shall be commenced within 2 years after the date that the duty became nondiscretionary.

((June 13, 2001, D.C. Law 13-312, § 410, as added Apr. 8, 2011, D.C. Law 18-369, § 2(k), 58 DCR 996.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2(k) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## § 8-634.11. Judicial review.

(a) In considering a challenge made to a response action taken or ordered under this chapter, or the denial of all or part of a petition for reimbursement under this chapter, the court shall uphold the Mayor's decision in selecting the response action unless the objecting party can demonstrate on the administrative record that the decision was arbitrary and capricious or otherwise not in accordance with District law.

(b) If the court finds that the selection of the response action was arbitrary and capricious or otherwise not in accordance with District law, the court shall award only the response costs or damages that are consistent with the Hazardous Substances Response Plan and other relief as is consistent with the Hazardous Substances Response Plan.

(c) In reviewing an alleged procedural error, the court may disallow the costs or damages only if the error was so serious and related to a matter of such central relevance to the action that the action would have been significantly changed had the error not been made.

(d) The Mayor shall establish an administrative record upon which the Mayor shall base the selection of a non-emergency response action. The administrative record shall be available to the public, at a minimum, by scheduling an appointment to inspect the record during regular business hours at DDOE.

(June 13, 2001, D.C. Law 13-312, § 411, as added Apr. 8, 2011, D.C. Law 18-369, § 2(k), 58 DCR 996.)

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## *Subchapter V. Institutional Controls.*

### § 8-635.01. Institutional control.

(a) DDOE is authorized to create, modify, maintain and disseminate records, informational systems, educational materials and other materials that are necessary to protect public health and the environment at contaminated properties cleaned up pursuant to this chapter or any other laws.

(b) DDOE is authorized to issue and execute instruments pertaining to properties cleaned up pursuant to this chapter and properties adversely affected by residual hazardous substances from the cleaned-up properties. When necessary, DDOE shall request other District agencies to issue and execute instruments pertaining to properties cleaned up pursuant to this chapter or other pertinent instruments. The instruments shall include:

(1) Notice of residual risk, which shall describe residual hazardous

substances and their location on a property and any engineering or institutional controls that are in place at the facility;

(2) Residual risk restriction, which may apply to the use of the property or to the use of specific resources on the property to the extent that the restriction will provide flexibility in use but must be consistent with the objectives of this chapter;

(3) Hazardous substance easement, which may grant DDOE access to the property for the purposes of monitoring the levels of hazardous substances and the maintenance and functioning of engineering or institutional controls;

(3A) Environmental covenant signed by the DDOE in accordance with Chapter 6C of this title; and

(4) Other orders that run with the land if any other instruments authorized pursuant to this section is found to be insufficient in implementing the objectives of this chapter.

(c) The Recorder of Deeds shall record any instruments issued pursuant to this section, with the deed to a concerned property.

(d) Any instruments issued pursuant to this section shall run with the land and may not be declared unenforceable under any circumstances, including lack of property interest, lack of privity of estate or contract, lack of benefit to a particular property, or any rule against restraints on transfer of property. DDOE may execute, modify, or terminate environmental covenants entered into pursuant to this section in accordance with Chapter 6C of this title. DDOE may modify, rescind, or extinguish any other instrument issued pursuant to this section for good cause consistent with the objectives of this chapter; provided, that the public is notified and given the opportunity to comment on the proposed action.

(June 13, 2001, D.C. Law 13-312, § 501, 48 DCR 3804; May 12, 2006, D.C. Law 16-95, § 201, 53 DCR 1652; Mar. 25, 2009, D.C. Law 17-353, §§ 109, 181, 56 DCR 1117; Apr. 8, 2011, D.C. Law 18-369, § 2(a), 58 DCR 996.)

**Effect of amendments.** — D.C. Law 16-95, in par. (b)(3), substituted “;” for “; and”; added par. (b)(3A); in par. (b)(4), substituted “Other orders” for “Orders”; and rewrote subsec. (d), which had read as follows: “(d) Any instruments issued pursuant to this section shall run with the land and may not be declared unenforceable under any circumstances, including lack of property interest, lack of privity of estate or contract, lack of benefit to a particular property, or any rule against restraints on transfer of property. EHA may modify, rescind, or extinguish any instrument issued pursuant to this section for good cause consistent with the objectives of this chapter provided that the public is notified and given the opportunity to comment on the proposed action.”

D.C. Law 17-353, in subsec. (b), substituted “cleaned-up properties” for “cleaned up properties” and “instruments pertaining to properties cleaned up pursuant to this act or other pertinent” for “the same or pertinent the” in the lead-in language, and substituted “run” for

“runs” in par. (4), and validated previously made technical corrections in subsec. (d).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01.

**Legislative history of Law 17-353.** — Law 17-353, the “Technical Amendments Act of 2008”, was introduced in Council and assigned Bill No. 17-994 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 15, 2009, it was assigned Act No. 17-687 and transmitted to both Houses of Congress for its review. D.C. Law 17-353 became effective on March 25, 2009.



*Subchapter VI. Public Notice, Involvement.***§ 8-636.01. Public notice.**

(a) Prior to the approval of any application or cleanup action plan, and before the issuance of a Certificate of Completion, DDOE shall provide the public with a 14-day notice to comment on the proposed approval or issuance. Public comments required pursuant to this section shall be considered by DDOE in acting upon an application, cleanup action plan, or the issuance of a Certificate of Completion.

(b) The notice issued pursuant to subsection (a) of this section shall be published in the District of Columbia Register, and shall be mailed to the Advisory Neighborhood Commission in the neighborhood where the concerned property is located. The notice may also be published in a newspaper of general circulation.

(June 13, 2001, D.C. Law 13-312, § 601, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(a), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-636.02.

**Effect of amendments.** — D.C. Law 18-369 substituted “DDOE” for “EHA” wherever it appeared.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a) of Brownfield Revitalization Emergency Amend-

ment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

**§ 8-636.02. Public involvement.**

(a) In addition to the provisions of § 8-636.01, DDOE may develop public involvement plans, which may include public hearings, the posting on a property of an intent to conduct a response or cleanup action, and the requirement to include a summary of proposed plans in the public notices.

(b)(1) This chapter shall not prevent a person from commencing an action to compel the Mayor to perform a non-discretionary duty under this chapter or to commence a civil action on his or her own behalf against a person who is in violation of an order of the Mayor, permit, or other applicable standard, requirement, regulation, or provision of law pursuant to this chapter.

(2) An action shall not be commenced if the Mayor has commenced an action under this chapter or another law to require compliance with the standard, regulation, requirement, or order concerned.

(3) An action commenced pursuant to this subsection shall require a 60-day notice to the Mayor and an alleged violator.

(4) The court may award attorneys’ fees and other costs to the prevailing party on actions commenced pursuant to this subsection.

(June 13, 2001, D.C. Law 13-312, § 602, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(a), (l), 58 DCR 996.)

**Section references.** — This section is referenced in § 8-636.03.

**Effect of amendments.** — D.C. Law 18-369 substituted “DDOE” for “EHA” throughout the section; and rewrote subsec. (b), which had read as follows: “(b) Nothing in this chapter shall prevent any person from commencing an action to compel the Mayor to perform any non-discretionary duty under this chapter; or to commence a civil action on his or her own behalf against any person who is in violation of any standard, regulations, requirements, or orders pursuant to this chapter. An action commenced pursuant to this subsection shall require a 60-day notice to the Mayor and any alleged violator. The court may award attorney fees and other costs to the prevailing party on

actions commenced pursuant to this subsection.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a), (l) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

For temporary (90 day) addition of section, see § 2(m) of Brownfield Revitalization Emergency Amendment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

### § 8-636.03. Timing of review.

A court shall not review a challenge to a response action chosen by the Mayor or to review any order issued by the Mayor, pursuant to § 8-634.01, except in the following circumstances:

- (1) An action pursuant to § 8-634.01(a)(4);
- (2) An action for reimbursement pursuant to § 8-634.02;
- (3) An action pursuant to § 8-634.07(1), (2), (4), and (5);
- (4) An action for contribution pursuant to § 8-634.09; and
- (5) An action pursuant to § 8-636.02(b).

(June 13, 2001, D.C. Law 13-312, § 603, as added Apr. 8, 2011, D.C. Law 18-369, § 2(m), 58 DCR 996.)

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

## *Subchapter VII. Cleanup Incentives.*

### § 8-637.01. Incentive authorized.

(a) The Mayor may submit proposed rules to the Council to establish credits that offset real property taxes and business franchise taxes in connection with the cleanup and redevelopment of a contaminated property. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(b) Nothing in this section shall affect any requirements imposed upon the Mayor pursuant to subchapter I of Chapter 5 of Title 2.

(c) The aggregate of the credits given pursuant to this section may equal an amount up to 100% of costs for cleanup and shall not exceed 25% of costs for redevelopment of a contaminated property.

(June 13, 2001, D.C. Law 13-312, § 701, 48 DCR 3804.)

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

## § 8-637.02. Requirements.

(a) The Mayor may grant a property tax reduction on a contaminated property for the cleanup and the redevelopment of the property. The Mayor may grant the deferral or forgiveness of any delinquent real property taxes, delinquent special assessments, cost or fee assessed to correct any condition that exists on the contaminated property in violation of the law. The application for the tax reduction or for deferral or forgiveness, shall contain the following:

- (1) A description of the real property;
- (2) The assessed value of the real property;
- (3) A statement of expected public benefits;
- (4) A certification by DDOE that the applicant is eligible for the voluntary cleanup program established by this chapter; and
- (5) A statement of public benefits which shall include the following:
  - (A) A description of the proposed cleanup and redevelopment;
  - (B) An estimate of the cost of the cleanup and redevelopment; and
  - (C) An estimate of the benefits associated with the proposed cleanup and redevelopment of the contaminated property, including:

(i) An estimate of the number of person who will be employed or whose employment shall be retained as a result of the cleanup and redevelopment; an estimate of the annual salaries of those employees; and the number of District resident employees;

(ii) An estimate of the increase in the assessed value of the real property; and

(iii) An estimate of the total increase in taxable activity in connection with the proposal.

(b) The Mayor may grant a credit to any franchise tax liability imposed by subchapters VII or VIII of Chapter 18 of Title 47. The application for the credit shall:

- (1) Identify the incorporated or unincorporated business entity;
- (2) Estimate the annual dollar value of each franchise tax credit; and
- (3) State whether the business entity has entered into an employment agreement with the District pursuant to subchapter X of Chapter 2 of Title 2.

(c) If the amount of the credits allowable pursuant to this section exceeds the taxes otherwise due, the amount of the credits not used as an offset against the taxes may be carried forward for up to 25 years.

(d) The Mayor may impose limitations on the amount of total reductions that shall be allowed.

(June 13, 2001, D.C. Law 13-312, § 702, 48 DCR 3804; Oct. 26, 2001, D.C. Law 14-42, § 16, 48 DCR 7612; Apr. 8, 2011, D.C. Law 18-369, § 2(a), 58 DCR 996.)



**Effect of amendments.** — D.C. Law 14-42, in subsec. (b), substituted “subchapters VII or VIII of Chapter 18” for “subchapters VII or VIII”.

D.C. Law 18-369 substituted “DDOE” for “EHA” wherever it appeared.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 16 of Technical Amendments Emergency Act of 2001 (D.C. Act 14-108, August 3).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 14-42.** — Law

14-42, the “Technical Correction Amendment Act of 2001”, was introduced in Council and assigned Bill No. 14-216, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 5, 2001, and June 26, 2001, respectively. Signed by the Mayor on July 24, 2001, it was assigned Act No. 14-107 and transmitted to both Houses of Congress for its review. D.C. Law 14-42 became effective on October 26, 2001.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

### § 8-637.03. Environmental Savings Account Program.

The Mayor shall establish an Environmental Savings Account Program which shall permit any person, to establish an Environmental Savings Account (“ESA”) for the purpose of accumulating funds to be used for the cleanup or the redevelopment of a contaminated property. Funds deposited in an ESA and the interest earned on the funds shall be exempt from District income tax; provided, that any funds withdrawn that are not used for cleanup and redevelopment shall be subject to income tax and a 10% penalty.

(June 13, 2001, D.C. Law 13-312, § 703, 48 DCR 3804.)

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

### § 8-637.04. Contaminated property cleanup assistance.

(a) Subject to availability of funds in the Clean Land Fund established by § 8-633.08, the Mayor may award grants and provide financial assistance for the cleanup and redevelopment of contaminated property. The financial assistance, in the form of grants or loans, to be made at a rate not to exceed 2%, shall be in an amount up to 75% of the costs incurred for completing an environmental assessment and cleaning and redeveloping a contaminated property.

(b) The following criteria shall be used to determine eligibility for financial assistance:

- (1) The benefit of the remedy to public health, safety and the environment;
- (2) The permanence of the remedy;
- (3) The cost effectiveness of the remedy compared with other alternatives;
- (4) The financial condition of the applicant;
- (5) The economic distress of the area in which the site is located; and
- (6) The potential for economic development.

(c) In addition to the criteria in subsection (b) of this section, loans may be made based on the ability to repay the loan from future revenue to be derived from the redeveloped site and may be secured by a mortgage or other collateral.

(d) Moneys received as repayment of loans shall be deposited in the Clean Land Fund.

(e) The Mayor shall provide an annual report to the Council by October 1 of each year on grants, loans, and expenditures made from the Clean Land Fund, the revenue received by the fund, and on the effectiveness of the fund in redeveloping contaminated property sites.

(June 13, 2001, D.C. Law 13-312, § 704, 48 DCR 3804.)

**Section references.** — This section is referenced in § 8-633.08.

**Temporary Addition of Section.** — For temporary (225 day) addition of section 8-637.11, see § 2 of Brownfield Revitalization Temporary Amendment Act of 2001 (D.C. Law 14-16, July 10, 2001, law notification 48 DCR 6592).

**Emergency legislation.** — For temporary (90 day) addition of section 8-637.11, see § 2 of Brownfield Revitalization Emergency Amendment Act of 2001 (D.C. Act 14-39, April 18, 2001, 48 DCR 3837).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

### *Subchapter VIII. Rules, Fiscal Impact, Effective Date.*

## § 8-638.01. Rules.

(a) The Mayor may promulgate rules to implement the provisions of this chapter, including provisions concerning site assessment, financial assurance, feasibility studies, response actions, enforcement, cleanup standards, natural resources, public participation, and other provisions relevant to this chapter.

(b) The Mayor shall have the authority to enter into cooperative agreements, cost-sharing and other agreements for which states are eligible under the Federal Act and other statutes in order to further the purposes of this chapter.

(June 13, 2001, D.C. Law 13-312, § 801, 48 DCR 3804; Apr. 8, 2011, D.C. Law 18-369, § 2(n), 58 DCR 996.)

**Effect of amendments.** — D.C. Law 18-369 rewrote subsec. (a), which had read as follows: “(a) The Mayor shall promulgate rules to implement the provisions of this chapter.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(n) of Brownfield Revitalization Emergency Amend-

ment Act of 2010 (D.C. Act 18-667, December 28, 2010, 58 DCR 95).

**Legislative history of Law 13-312.** — For Law 13-312, see notes following § 8-631.01.

**Legislative history of Law 18-369.** — For history of Law 18-369, see notes under § 8-631.02.

CHAPTER 6B. URBAN FOREST PRESERVATION.

Sec.

8-651.01. Findings.

8-651.02. Definitions.

8-651.03. Urban Forest Preservation Program.

8-651.04. Preservation of Special Trees; permits; penalties.

Sec.

8-651.05. Notification requirements for removal of trees on public space.

8-651.06. Hazardous Trees.

8-651.07. Tree Fund.

8-651.08. Enforcement.

§ 8-651.01. Findings.

(a) The urban forest of the District of Columbia, growing on both public and private land, is one of the District's great natural resources.

(b) A healthy, vibrant urban forest provides numerous environmental benefits, including:

- (1) Heat island effect mitigation and reduced energy use;
- (2) Better air quality and reduced water pollution; and
- (3) Quieter and more beautiful neighborhoods.

(c) The trees comprising the urban forest have significant aesthetic value, which enhances property values and the quality of life in neighborhoods throughout the District.

(June 12, 2003, D.C. Law 14-309, § 101, 50 DCR 888.)

**Legislative history of Law 14-309.** — Law 14-309, the “Urban Forest Preservation Act of 2002”, was introduced in Council and assigned Bill No. 14-307, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on December 3, 2002, and December 17, 2002, respectively. Signed by the Mayor on January 22, 2003, it was assigned Act No.

14-614 and transmitted to both Houses of Congress for its review. D.C. Law 14-309 became effective on June 12, 2003.

**Delegation of Authority.** — Delegation of Authority to the Urban Forest Preservation Act of 2002 and the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, see Mayor's Order 2003-173, December 1, 2003 (50 DCR 10619).

§ 8-651.02. Definitions.

For the purposes of this chapter, the term:

(1) “Circumference” means the linear distance around the trunk of a tree, when measured at a height of 4 1/2 feet.

(2) “Director” means the Director of the Department of Transportation.

(3) “Hazardous tree” means a tree that, in the opinion of a certified arborist, is defective, diseased, dying, or dead and should be removed; poses a high risk of failure or fracture with the potential to cause injury to people or damage to property and should be removed; or is causing damage to property or structures that cannot be mitigated in any manner other than removal of the tree. In any case, the Mayor shall have the authority to determine that a tree is not hazardous.

(4) “Public parking” means that area of public space devoted to open space, greenery, parks, or parking that lies between the property line, which may or may not coincide with the building restriction line, and the edge of the actual or planned sidewalk that is nearer to the property line, as the property line and sidewalk are shown on the records of the District.



(5) “Special Tree” means a tree with a circumference of 55 inches or more.

(6) “Top” means, as defined by the latest edition of the ANSI-A300 pruning standards, the unacceptable act of tree pruning resulting in the indiscriminate reduction of the tree’s crown leading to disfigurement or death of the tree.

(7) “Tree Fund” means the Tree Fund established pursuant to § 8-651.07.

(June 12, 2003, D.C. Law 14-309, § 102, 50 DCR 888.)

**Legislative history of Law 14-309.** — For Law 14-309, see notes following § 8-651.01.

### § 8-651.03. Urban Forest Preservation Program.

(a)(1) There is hereby established an Urban Forest Preservation Program for the District of Columbia which shall be administered by the Mayor. The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall promulgate standards and regulations governing the administration of this program and the protection of trees.

(2) The regulations shall allow public utility companies regulated by the Public Service Commission to conduct utility construction, line maintenance, and emergency work within the District’s rights-of-way without a Special Tree removal permit otherwise required by this chapter.

(b) The Mayor shall transmit the regulations prescribed in subsection (a) of this section to the Council no later than 270 calendar days following June 12, 2003 for approval or disapproval, by resolution. These regulations and each revision of these regulations shall be transmitted to the Council for a 45-day review period, excluding Saturdays, Sundays, holidays and periods of Council recess, and deemed disapproved in the absence of Council action within the 45-day review period.

(c) The Mayor shall be responsible for preparing and annually updating a 5-year urban forest report and master plan.

(June 12, 2003, D.C. Law 14-309, § 103, 50 DCR 888.)

**Section references.** — This section is referenced in § 8-651.05.

**Legislative history of Law 14-309.** — For Law 14-309, see notes following § 8-651.01.

**Resolutions.** — Resolution 18-140, the “Urban Forest Preservation Regulations Approval Resolution of 2009”, was approved effective June 2, 2009.

### § 8-651.04. Preservation of Special Trees; permits; penalties.

(a) It shall be unlawful for any person or nongovernmental entity, without a Special Tree removal permit issued by the Mayor, to Top, cut down, remove, girdle, break, or destroy any Special Tree.

(b) The Mayor shall issue a Special Tree removal permit under this section where the applicant has:

(1) Shown that the Special Tree in question is a Hazardous Tree;

(2) Shown that the Special Tree in question is of a species that has been identified, by regulation, as appropriate for removal;

(3) Paid into the Tree Fund an amount equal to \$35 for each inch of the circumference of the Special Tree in question; or

(4) Averred in a signed Special Tree removal permit application that the applicant will plant, in compliance with the applicable regulations, a quantity of saplings whose aggregated circumference equals or exceeds the circumference of the Special Tree in question.

(c) The showings required by subsection (b) of this section may be satisfied by a combination of payments and plantings pursuant to subsection (b)(3) and (b)(4) of this section.

(d) A violation of subsection (a) of this section, or a failure to comply with the conditions contained in a Special Tree removal permit, shall constitute a violation subject to a fine of not less than \$100 per each inch of the circumference of the Special Tree in question.

(June 12, 2003, D.C. Law 14-309, § 104, 50 DCR 888.)

**Legislative history of Law 14-309.** — For Law 14-309, see notes following § 8-651.01.

## § 8-651.05. Notification requirements for removal of trees on public space.

(a) Unless the tree is a Hazardous Tree, before removing a tree on public space, the Director shall provide not less than 15 days written notice to the affected Advisory Neighborhood Commission, and shall set forth the reason for the proposed removal.

(b) Public utility companies shall provide not less than 20 days written notice to the Director or his or her designee prior to performing any work which affects trees on public space, except for permitted utility construction or emergency work conducted by a public utility company regulated by the Public Service Commission, as provided in § 8-651.03(a).

(June 12, 2003, D.C. Law 14-309, § 105, 50 DCR 888.)

**Legislative history of Law 14-309.** — For Law 14-309, see notes following § 8-651.01.

## § 8-651.06. Hazardous Trees.

(a) Nothing in this chapter shall prohibit the Mayor or a property owner from immediately removing a Hazardous Tree.

(b) No property owner shall permit a tree or tree part, dead or alive, to stand on his or her property, including the public parking area associated with that property if it is a hazard to the public at-large, or endangers any public improvement or other public facility.

(c) If the Mayor identifies a tree hazard as described in subsection (b) of this section, the Mayor shall notify the property owner of the hazardous situation, and shall give the property owner not less than 10 days written notice, excluding Saturdays, Sundays, and legal holidays, to eliminate the hazard.

(d) Where the District has notified a property owner of a hazard and no

action is taken by the property owner to eliminate the hazard, the Mayor may take corrective action to abate the hazard. The Mayor shall then send the property owner a bill for the cost of the abatement action including any administrative costs incurred by the District. If the bill remains unpaid after [60 days], it shall become a tax lien against the property.

(June 12, 2003, D.C. Law 14-309, § 106, 50 DCR 888.)

**Legislative history of Law 14-309.** — For Law 14-309, see notes following § 8-651.01.

## § 8-651.07. Tree Fund.

(a) There shall be established a fund designated as the Tree Fund, which shall be a sub-fund of the Local Road Construction and Maintenance Fund and separate from the General Fund of the District of Columbia. Monies deposited into the Tree Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section pursuant to an act of Congress. Donations, fees and penalties collected pursuant to this chapter or any rules established to implement this chapter shall be deposited into the Tree Fund. All receipts shall be deposited as soon as practicable. The Director shall maintain the fund in coordination with the Chief Financial Officer of the District of Columbia.

(b) The Fund shall be used to plant trees and for any associated costs incurred by the District in administering this chapter, and shall include providing income-contingent subsidies to assist District residents with the removal costs of hazardous trees in accordance with regulations submitted for Council approval within 60 days of September 18, 2007. The Fund may include income-contingent subsidies for the replacement of trees when owners are required to remove hazardous trees.

(c) The Chief Financial Officer shall submit to the Mayor and to the Council an annual statement of all receipts and disbursements for the Fund.

(d) Private voluntary donations to the Fund shall be tax deductible for purposes of District income and franchise taxes.

(June 12, 2003, D.C. Law 14-309, § 107, 50 DCR 888; Apr. 13, 2005, D.C. Law 15-354, § 21(a), 52 DCR 2638; Sept. 18, 2007, D.C. Law 17-20, § 6102, 54 DCR 7052.)

**Section references.** — This section is referenced in § 8-651.02.

**Effect of amendments.** — D.C. Law 15-354, in subsec. (a), validated a previously made technical correction.

D.C. Law 17-20 rewrote subsec. (b), which had read as follows: “(b) The Fund shall be used to plant trees and for any associated costs incurred by the District in administering this chapter, and may include providing income contingent subsidies that assist District residents with the removal costs of hazardous trees

in accordance with regulations provided for in § 8-651.03.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 6102 of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

**Legislative history of Law 14-309.** — For Law 14-309, see notes following § 8-651.01.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 8-103.06.

**Legislative history of Law 17-20.** — Law



17-20, the “Fiscal Year 2008 Budget Support Act of 2007”, was introduced in Council and assigned Bill No. 17-148 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 15, 2007, and June 5, 2007, respectively. Signed by the Mayor on June 28, 2007, it was assigned Act No. 17-63 and transmitted to both Houses

of Congress for its review. D.C. Law 17-20 became effective on September 18, 2007.

**Short title.** — Short title: Section 6101 of D.C. Law 17-20 provided that subtitle K of title VI of the act may be cited as the “Hazardous Tree Removal Subsidies for Low-Income Homeowners Amendment Act of 2007”.

## § 8-651.08. Enforcement.

Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this chapter, or any regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2.

(June 12, 2003, D.C. Law 14-309, § 108, 50 DCR 888.)

**Legislative history of Law 14-309.** — For Law 14-309, see notes following § 8-651.01.

## CHAPTER 6C. UNIFORM ENVIRONMENTAL COVENANTS.

Sec.	Sec.
8-671.01. Definitions.	8-671.10. Enforcement of environmental covenant.
8-671.02. Nature of rights; subordination of interests.	8-671.11. Registry; substitute notice.
8-671.03. Contents of environmental covenant.	8-671.12. Rules.
8-671.04. Validity; effect on other instruments.	8-671.13. Uniformity of application and construction.
8-671.05. Relationship to other land-use law.	8-671.14. Relation to federal Electronic Signatures in Global and National Commerce Act.
8-671.06. Notice.	
8-671.07. Recording.	
8-671.08. Duration; amendment by court action.	
8-671.09. Amendment or termination by consent.	

**§ 8-671.01. Definitions.**

For the purposes of this chapter, the term:

(1) “Activity and use limitations” means restrictions or obligations created under this chapter with respect to real property.

(2) “Common-interest community” means a condominium, cooperative, or other real property with respect to which a person, by virtue of the person’s ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums, or for maintenance, or improvement of other real property described in a recorded covenant that creates the common-interest community.

(3) “Environmental agency” means the District of Columbia’s Environment Health Administration, or its successor, or a federal agency that determines or approves the environmental response project pursuant to which the environmental covenant is created.

(4) “Environmental covenant” means a servitude arising under an environmental response project that imposes activity and use limitations.

(5) “Environmental response project” means a plan or work performed for environmental remediation of real property and conducted:

(A) Under a District or federal program governing environmental remediation of real property, including a cleanup action plan under § 8-633.03;

(B) Incident to closure of a solid or hazardous waste management unit, if the closure is conducted with approval of an agency; or

(C) Under a voluntary cleanup program under subchapter III of Chapter 6A of this title.

(6) “Holder” means the grantee of an environmental covenant as specified in § 8-671.02(a).

(7) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumental-ity, or any other legal or commercial entity.

(8) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(9) “State” means a state of the United States, the District of Columbia,

Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(May 12, 2006, D.C. Law 16-95, § 101, 53 DCR 1652.)

**Section references.** — This section is referenced in § 8-671.11.

**Legislative history of Law 16-95.** — Law 16-95, the “Uniform Environmental Covenants Act of 2005”, was introduced in Council and assigned Bill No. 16-147 which was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on January

4, 2006, and February 7, 2006, respectively. Signed by the Mayor on February 27, 2006, it was assigned Act No. 16-290 and transmitted to both Houses of Congress for its review. D.C. Law 16-95 became effective on May 12, 2006.

**Editor’s notes.** — Uniform Law: This section is based upon § 1 of the Uniform Environmental Covenants Act.

## § 8-671.02. Nature of rights; subordination of interests.

(a) Any person, including a person that owns an interest in the real property, the environmental agency, or a municipality or any other unit of local government, may be a holder. An environmental covenant may identify more than one holder. The interest of a holder is an interest in real property.

(b) A right of an environmental agency under this chapter or under an environmental covenant, other than a right as a holder, is not an interest in real property.

(c) An environmental agency is bound by any obligation it assumes in an environmental covenant, but an environmental agency does not assume obligations merely by signing an environmental covenant. Any other person that signs an environmental covenant is bound by the obligations the person assumes in the covenant, but signing the covenant does not change obligations, rights, or protections granted or imposed under law other than this chapter except as provided in the covenant.

(d) The following rules apply to interests in real property in existence at the time an environmental covenant is created or amended:

(1) An interest that has priority under other law is not affected by an environmental covenant unless the person that owns the interest subordinates that interest to the covenant.

(2) This chapter does not require a person that owns a prior interest to subordinate that interest to an environmental covenant or to agree to be bound by the covenant.

(3) A subordination agreement may be contained in an environmental covenant covering real property or in a separate record. If the environmental covenant covers commonly owned property in a common-interest community, the record may be signed by any person authorized by the governing board of the owners’ association.

(4) An agreement by a person to subordinate a prior interest to an environmental covenant affects the priority of that person’s interest but does not by itself impose any affirmative obligation on the person with respect to the environmental covenant.

(e) The Environmental Health Administration, or its successor, shall have regulatory authority over real property transfers from the federal government or a federal agency to a non-federal owner.



(May 12, 2006, D.C. Law 16-95, § 102, 53 DCR 1652.)

**Section references.** — This section is referenced in § 8-671.01.

**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01.

**Editor's notes.** — Uniform Law: This section is based upon § 2 of the Uniform Environmental Covenants Act.

### § 8-671.03. Contents of environmental covenant.

(a) An environmental covenant must:

(1) State that the instrument is an environmental covenant executed pursuant to this chapter;

(2) Contain a legally sufficient description of the real property subject to the covenant;

(3) Describe the activity and use limitations on the real property;

(4) Identify every holder;

(5) Be signed by the environmental agency, every holder, and, unless waived by the environmental agency, every owner of the fee simple of the real property subject to the covenant; and

(6) Identify the name and location of any administrative record for the environmental response project reflected in the environmental covenant.

(b) In addition to the information required by subsection (a) of this section, an environmental covenant may contain other information, restrictions, and requirements agreed to by the persons who signed it, including any:

(1) Requirements for notice following transfer of a specified interest in, or concerning proposed changes in use of, applications for building permits for, or proposals for any site work affecting the contamination on, the property subject to the covenant;

(2) Requirements for periodic reporting describing compliance with the covenant;

(3) Rights of access to the property granted in connection with implementation or enforcement of the covenant;

(4) A brief narrative description of the contamination and remedy, including the contaminants of concern, the pathways of exposure, limits on exposure, and the location and extent of the contamination;

(5) Limitation on amendment or termination of the covenant in addition to those contained in §§ 8-671.08 and 8-671.09; and

(6) Rights of the holder in addition to its right to enforce the covenant pursuant to § 8-671.10.

(c) In addition to other conditions for its approval of an environmental covenant, the environmental agency may require those persons specified by the environmental agency who have interests in the real property to sign the covenant.

(May 12, 2006, D.C. Law 16-95, § 103, 53 DCR 1652.)

**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01.

**Editor's notes.** — Uniform Law: This sec-

tion is based upon § 3 of the Uniform Environmental Covenants Act.

## § 8-671.04. Validity; effect on other instruments.

(a) An environmental covenant that complies with this chapter runs with the land.

(b) An environmental covenant that is otherwise effective is valid and enforceable even if:

(1) It is not appurtenant to an interest in real property;

(2) It can be or has been assigned to a person other than the original holder;

(3) It is not of a character that has been recognized traditionally at common law;

(4) It imposes a negative burden;

(5) It imposes an affirmative obligation on a person having an interest in the real property or on the holder;

(6) The benefit or burden does not touch or concern real property;

(7) There is no privity of estate or contract;

(8) The holder dies, ceases to exist, resigns, or is replaced; or

(9) The owner of an interest subject to the environmental covenant and the holder are the same person.

(c) An instrument that creates restrictions or obligations with respect to real property that would qualify as activity and use limitations except for the fact that the instrument was recorded before May 12, 2006, is not invalid or unenforceable because of any of the limitations on enforcement of interests described in subsection (b) of this section or because it was identified as an easement, servitude, deed restriction, or other interest. This chapter does not apply in any other respect to such an instrument.

(d) This chapter does not invalidate or render unenforceable any interest, whether designated as an environmental covenant or other interest, that is otherwise enforceable under the law of the District of Columbia.

(May 12, 2006, D.C. Law 16-95, § 104, 53 DCR 1652.)

**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01.

**Editor's notes.** — Uniform Law: This sec-

tion is based upon § 4 of the Uniform Environmental Covenants Act.

## § 8-671.05. Relationship to other land-use law.

This chapter does not authorize a use of real property that is otherwise prohibited by zoning, by law other than this chapter regulating use of real property, or by a recorded instrument that has priority over the environmental covenant. An environmental covenant may prohibit or restrict uses of real property which are authorized by zoning or by law other than this chapter.

(May 12, 2006, D.C. Law 16-95, § 105, 53 DCR 1652.)

**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01.

**Editor's notes.** — Uniform Law: This sec-

tion is based upon § 5 of the Uniform Environmental Covenants Act.

## § 8-671.06. Notice.

(a) A copy of an environmental covenant shall be provided by the persons designated by the agency and in the manner required by the environmental agency to:

- (1) Each person that signed the covenant;
- (2) Each person holding a recorded interest in the real property subject to the covenant;
- (3) Each person in possession of the real property subject to the covenant;
- (4) Each municipality or other unit of local government in which real property subject to the covenant is located; and
- (5) Any other person the environmental agency requires.

(b) The validity of a covenant is not affected by failure to provide a copy of the covenant as required under this section.

(May 12, 2006, D.C. Law 16-95, § 106, 53 DCR 1652.)

**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01.

**Editor's notes.** — Uniform Law: This sec-

tion is based upon § 6 of the Uniform Environmental Covenants Act.

## § 8-671.07. Recording.

(a) An environmental covenant and any amendment or termination of the covenant must be recorded with District of Columbia Recorder of Deeds. For purposes of indexing, a holder shall be treated as a grantee.

(b) Except as otherwise provided in § 8-671.08(c), an environmental covenant is subject to the laws of the District governing recording and priority of interests in real property.

(May 12, 2006, D.C. Law 16-95, § 107, 53 DCR 1652.)

**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01.

**Editor's notes.** — Uniform Law: This sec-

tion is based upon § 7 of the Uniform Environmental Covenants Act.

## § 8-671.08. Duration; amendment by court action.

(a) An environmental covenant is perpetual unless it is:

- (1) By its terms limited to a specific duration or terminated by the occurrence of a specific event;
- (2) Terminated by consent pursuant to § 8-671.09;
- (3) Terminated pursuant to subsection (b) of this section;
- (4) Terminated by foreclosure of an interest that has priority over the environmental covenant; or
- (5) Terminated or modified in an eminent domain proceeding, but only if:
  - (A) The environmental agency that signed the covenant is a party to the proceeding;



(B) All persons identified in § 8-671.09(a) and (b) are given notice of the pendency of the proceeding; and

(C) The court determines, after hearing, that the termination or modification will not adversely affect human health or the environment.

(b) If the environmental agency that signed an environmental covenant has determined that the intended benefits of the covenant can no longer be realized, a court, under the doctrine of changed circumstances, in an action in which all persons identified in § 8-671.09(a) and (b) have been given notice, may terminate the covenant or reduce its burden on the real property subject to the covenant. The environmental agency's determination or its failure to make a determination upon request is subject to review pursuant to Chapter 5 of Title 2.

(c) Except as otherwise provided in subsections (a) and (b) of this section, an environmental covenant may not be extinguished, limited, or impaired through issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, or acquiescence, or a similar doctrine.

(May 12, 2006, D.C. Law 16-95, § 108, 53 DCR 1652.)

**Section references.** — This section is referenced in § 8-671.03 and § 8-671.07.

**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01.

**Editor's notes.** — Uniform Law: This section is based upon § 8 of the Uniform Environmental Covenants Act.

## § 8-671.09. Amendment or termination by consent.

(a) An environmental covenant may be amended or terminated by consent only if the amendment or termination is signed by:

(1) The environmental agency;

(2) Unless waived by the environmental agency, the current owner of the fee simple of the real property subject to the covenant;

(3) Each person that originally signed the covenant, unless the person waived in a signed record the right to consent or a court finds that the person no longer exists or cannot be located or identified with the exercise of reasonable diligence; and

(4) Except as otherwise provided in subsection (d)(2) of this section, the holder.

(b) If an interest in real property is subject to an environmental covenant, the interest is not affected by an amendment of the covenant unless the current owner of the interest consents to the amendment or has waived in a signed record the right to consent to amendments.

(c) Except for an assignment undertaken pursuant to a governmental reorganization, assignment of an environmental covenant to a new holder is an amendment.

(d) Except as otherwise provided in an environmental covenant:

(1) A holder may not assign its interest without consent of the other parties;

(2) A holder may be removed and replaced by agreement of the other parties specified in subsection (a) of this section; and

(3) A court of competent jurisdiction may fill a vacancy in the position of holder.

(May 12, 2006, D.C. Law 16-95, § 109, 53 DCR 1652.)

**Section references.** — This section is referenced in § 8-671.03 and § 8-671.08.

**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01.

**Editor's notes.** — Uniform Law: This section is based upon § 9 of the Uniform Environmental Covenants Act.

## § 8-671.10. Enforcement of environmental covenant.

(a) A civil action for injunctive or other equitable relief for violation of an environmental covenant may be maintained by:

- (1) A party to the covenant;
- (2) The Attorney General of the District of Columbia;
- (3) Any person to whom the covenant expressly grants power to enforce;
- (4) A person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the covenant; or
- (5) A municipality or other unit of local government in which the real property subject to the covenant is located.

(b) This chapter does not limit the regulatory authority of the environmental agency or the Environmental Health Administration, or its successor, under law other than this chapter with respect to an environmental response project.

(c) A person is not responsible for or subject to liability for environmental remediation solely because it has the right to enforce an environmental covenant.

(May 12, 2006, D.C. Law 16-95, § 110, 53 DCR 1652.)

**Section references.** — This section is referenced in § 8-671.03.

**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01.

**Editor's notes.** — Uniform Law: This section is based upon § 10 of the Uniform Environmental Covenants Act.

## § 8-671.11. Registry; substitute notice.

(a) The Environmental Health Administration shall establish and maintain a registry that contains all environmental covenants and any amendment or termination of those covenants. The registry may also contain any other information concerning environmental covenants and the real property subject to them which the Environmental Health Administration considers appropriate. The registry is a public record for purposes of § 1-207.42.

(b) After an environmental covenant or an amendment or termination of a covenant is filed in the registry established pursuant to subsection (a) of this section, a notice of the covenant, amendment, or termination that complies with this section may be recorded in the land records in lieu of recording the entire covenant. Any such notice must contain:

- (1) A legally sufficient description and any available street address of the real property subject to the covenant;
- (2) The name and address of the owner of the fee simple interest in the

real property, the environmental agency, and the holder if other than the environmental agency;

(3) A statement that the covenant, amendment, or termination is available in a registry at the Environmental Health Administration, which discloses the method of any electronic access; and

(4) A statement that the notice is notification of an environmental covenant executed pursuant to this chapter.

(c) A statement in substantially the following form, executed with the same formalities as a deed in this state, satisfies the requirements of subsection (b) of this section:

“1. This notice is filed in the land records of the District of Columbia pursuant to the Uniform Environmental Covenants Act of 2006 (D.C. Official Code § 8-671.01 et seq.).

“2. This notice and the covenant, amendment, or termination to which it refers may impose significant obligations with respect to the property described below.

“3. A legal description of the property is attached as Exhibit A to this notice. The address of the property that is subject to the environmental covenant is (insert address of property) (not available).

“4. The name and address of the owner of the fee simple interest in the real property on the date of this notice is (insert name of current owner of the property and the owner’s current address as shown on the tax records of the District of Columbia).

“5. The environmental covenant, amendment, or termination was signed by (insert name and address of the agency).

“6. The environmental covenant, amendment, or termination was filed in the registry on (insert date of filing).

“7. The full text of the covenant, amendment, or termination and any other information required by the environmental agency is on file and available for inspection and copying in the registry maintained for that purpose by the Environmental Health Administration at (insert address and room of building in which the registry is maintained). (The covenant, amendment or termination may be found electronically at [insert web address for covenant]).”

(May 12, 2006, D.C. Law 16-95, § 111, 53 DCR 1652.)

**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01.

**References in text.** — The Uniform Environmental Covenants Act of 2006 referred to in subsec. (c) is D.C. Law 16-95.

**Editor’s notes.** — Uniform Law: This section is based upon § 11 of the Uniform Environmental Covenants Act.

## § 8-671.12. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to implement the provisions of this chapter.

(May 12, 2006, D.C. Law 16-95, § 112, 53 DCR 1652.)



**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01. tion is based upon § 12 of the Uniform Environmental Covenants Act.

**Editor's notes.** — Uniform Law: This sec-

### § 8-671.13. Uniformity of application and construction.

In applying and construing this uniform act [this chapter], consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(May 12, 2006, D.C. Law 16-95, § 113, 53 DCR 1652.)

**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01. tion is based upon § 13 of the Uniform Environmental Covenants Act.

**Editor's notes.** — Uniform Law: This sec-

### § 8-671.14. Relation to federal Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 467; 15 U.S.C. § 7001 et seq.), but does not modify, limit, or supersede section 101 of that act (15 U.S.C. § 7001(a)) or authorize electronic delivery of any of the notices described in section 103 of that act (15 U.S.C. § 7003(b)).

(May 12, 2006, D.C. Law 16-95, § 114, 53 DCR 1652.)

**Legislative history of Law 16-95.** — For Law 16-95, see notes following § 8-671.01. tion is based upon § 14 of the Uniform Environmental Covenants Act.

**Editor's notes.** — Uniform Law: This sec-

## SUBTITLE B. WASTE DISPOSAL AND MANAGEMENT.

### CHAPTER 7. GARBAGE.

Sec.

8-701. Regulations for the collection and disposal of garbage.

8-702. Contracts for collection and disposal of garbage and refuse.

8-703. Disposal by feeding to livestock.

8-704. Collection and disposal of refuse authorized as municipal function; purchase or lease of facilities; sale of products; gratuities prohibited; authorization to enter into mutual aid agreements for debris removal.

8-705. Incinerators for combustible refuse — Condemnation of sites authorized.

8-706. Incinerators for combustible refuse — Construction authorized.

Sec.

8-707. Incinerators for combustible refuse — Commencement of operation; other manner of disposal prohibited; exceptions; enforcement.

8-708. Incinerators for combustible refuse — Penalties.

8-709. Incinerators for combustible refuse— Purchase of machinery and employment of personnel authorized.

8-710. Incinerators for combustible refuse — Appropriation authorized; abandonment of leased plant.

8-711. Incinerators for combustible refuse — Use by certain Maryland and Virginia municipalities.

### § 8-701. Regulations for the collection and disposal of garbage.

The Mayor is hereby authorized to make necessary regulations for the collection and disposition of garbage in the District of Columbia, and to annex to said regulations such penalties as will secure the enforcement thereof.

(Mar. 2, 1895, 28 Stat. 758, ch. 176; May 2, 2002, D.C. Law 14-116, § 6, 49 DCR 1945.)

**Prior Codifications.** — 1981 Ed., § 6-501. 1973 Ed., § 6-501.

**Effect of amendments.** — D.C. Law 14-116 substituted “Mayor” for “Council of the District of Columbia”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 6 of Food Regulation Temporary Amendment Act of 2001 (D.C. Law 14-55, December 6, 2001, law notification 49 DCR 356).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 6 of Food Regulation Emergency Amendment Act of 2001 (D.C. Act 14-128, August 3, 2001, 48 DCR 7939).

For temporary (90 day) amendment of section, see § 6 of Food Regulation Legislative Review Emergency Amendment Act of 2001 (D.C. Act 14-147, October 23, 2001, 48 DCR 10183).

**Legislative history of Law 14-116.** — Law 14-116, the “Food Regulation Amendment Act of 2002”, was introduced in Council and assigned Bill No. 14-154, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on December 4, 2001, and February 5, 2002, re-

spectively. Signed by the Mayor on February 25, 2002, it was assigned Act No. 14-268 and transmitted to both Houses of Congress for its review. D.C. Law 14-116 became effective on May 2, 2002.

**New implementing regulations.** — New implementing regulations: Pursuant to this section, the following new regulations were adopted in 1983: The “Solid Waste Regulations Amendments Act of 1983” (D.C. Law 5-20, August 2, 1983, 30 DCR 3331).

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(139) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the

District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia,

respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CASE NOTES

### ANALYSIS

In general.  
Validity.

#### In general.

Where licenses issued for collection and transportation of solid wastes in or through the District of Columbia did not cover disposal of solid wastes in the District, separate disposal fee of \$5 per ton was a "license fee" authorized by statute, to the extent that the revenue therefrom was commensurate with the costs of supervision and regulation. D.C. Code §§ 1-226, 6-501, 6-504, 6-811, 6-812, 47-2344. Metropolitan D. C. Refuse Haulers Asso. v. Washington, 479 F.2d 1191, 1973 U.S. App. LEXIS 10459 (C.A.D.C. 1973).

Individual who owned his own house and received full services from District of Columbia had no standing to claim that the District discriminated in provision of refuse collection services. Burner v. Washington, 399 F. Supp. 44, 1975 U.S. Dist. LEXIS 11439 (1975).

If National Housing Authority was responsible for refuse collection at plaintiff's home, he had no standing to maintain that District of Columbia discriminated in provision of refuse collection services. Burner v. Washington, 399 F. Supp. 44, 1975 U.S. Dist. LEXIS 11439 (1975).

Person who lived in National Housing Authority project lacked standing to sue District of Columbia for discriminating in provision of refuse collection services. Burner v. Washington, 399 F. Supp. 44, 1975 U.S. Dist. LEXIS 11439 (1975).

Municipality had authority to enact regulation imposing disposal charge on commercial refuse haulers even though no such charge was imposed on governmental agencies or for residential refuse. D.C. Code §§ 1-226, 6-501, 6-504, 6-811 et seq., 47-2344. Metropolitan D. C. Refuse Haulers Asso. v. Washington, 360 F. Supp. 281, 1972 U.S. Dist. LEXIS 14429 (1972), affirmed by 479 F.2d 1191, 156 U.S. App. D.C. 208, 1973 U.S. App. LEXIS 10459 (1973).

Generally, health laws and ordinances are accorded liberal construction because their exercise is largely discretionary. Little v. District of Columbia, 62 A.2d 874, 1948 D.C. App. LEXIS 237 (Cr.App. 1948).

#### Validity.

Municipal regulations which protect the public health, prevent nuisances and the like, applicable by terms and practice to conditions infringing upon the public interest are valid. District of Columbia v. Little, 178 F.2d 13, 1949 U.S. App. LEXIS 2477 (C.A.D.C. 1949).

When health laws and ordinances appear to violate a constitutional right, the courts must carefully weigh the value of the end accomplished against the restrictions suffered. Little v. District of Columbia, 62 A.2d 874, 1948 D.C. App. LEXIS 237 (Cr.App. 1948).

It is within the police power of a municipal corporation to control and regulate the manner of collection and disposition of garbage, refuse, or filth, but such regulations must not unduly infringe upon individual rights. Little v. District of Columbia, 62 A.2d 874, 1948 D.C. App. LEXIS 237 (Cr.App. 1948).

## § 8-702. Contracts for collection and disposal of garbage and refuse.

The Mayor is authorized to enter into contracts for the collection and disposal of garbage, waste, refuse, ashes, sewage, and sludge for periods not exceeding 20 years, subject to such criteria as the Council may by act establish and to annual appropriations by Congress; provided, that any such contract which is for a period of more than 5 years shall not be valid unless, with respect to that particular contract, the Council by a two-thirds vote of its members present and voting has first authorized such an extended contract.

(May 18, 1910, 36 Stat. 389, ch. 248; Mar. 3, 1915, 38 Stat. 904, ch. 80; Apr. 6, 1978, D.C. Law 2-69, § 4, 24 DCR 6800.)



**Prior Codifications.** — 1981 Ed., § 6-502. 1973 Ed., § 6-502.

**Legislative history of Law 2-69.** — Law 2-69, the "Solid Waste Control Act of 1977," was introduced in Council and assigned Bill No. 2-99, which was referred to the Committee on Transportation and Environmental Affairs. The

Bill was adopted on first, amended first, second amended first and final readings on July 26, 1977, September 13, 1977, October 11, 1977 and October 25, 1977, respectively. Signed by the Mayor on January 27, 1978, it was assigned Act No. 2-135 and transmitted to both Houses of Congress for its review.

## § 8-703. Disposal by feeding to livestock.

Should the Mayor of the District of Columbia find that the garbage in the District can be disposed of in a sanitary manner and as economically by feeding it to pigs, livestock, and poultry on the land of the Home for the Aged and Infirm, located at Blue Plains, District of Columbia, or on the land of the Workhouse and Reformatory of the District of Columbia, located at Occoquan and Lorton, Virginia, or both, or on such other land as the said Mayor may be able to acquire by purchase or lease in the States of Virginia or Maryland, the said Mayor is authorized to use either or all of said designated lands, or to purchase or lease land in the States of Virginia or Maryland for the purpose, and to adopt the pig, livestock, or poultry-feeding method of disposal.

(May 6, 1918, 40 Stat. 541, ch. 67, § 6.)

**Prior Codifications.** — 1981 Ed., § 6-503. 1973 Ed., § 6-503.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 8-704. Collection and disposal of refuse authorized as municipal function; purchase or lease of facilities; sale of products; gratuities prohibited; authorization to enter into mutual aid agreements for debris removal.

(a) For the purposes of this section, the term:

(1) "Debris removal operations" means:

(A) Actions contributing to the removal of debris, including the collection, pick-up, hauling, and storage of debris at a temporary site;

(B) Segregation, reduction, and final disposal of debris;

(C) Providing personnel, equipment, parts, or fuel for equipment for debris removal;

(D) Travel to the site where debris removal is needed; or

(E) Support for any of the foregoing.

(2) "Emergency" shall have the same meaning as provided in section

7302(a)(3) of the Intelligence Reform and Terrorism Protection Act of 2004, approved December 17, 2004 (Pub. L. 108-458; 118 Stat. 3340).

(3) "Public service event" shall have the same meaning as provided in section 7302(a)(9) of the Intelligence Reform and Terrorism Protection Act of 2004, approved December 17, 2004 (Pub. L. 108-458; 118 Stat. 3840).

(4) "Training" shall have the same meaning as provided in section 7302(a)(11) of the Intelligence Reform and Terrorism Protection Act of 2004, approved December 17, 2004 (Pub. L. 108-458; 118 Stat. 3841).

(b) The Mayor of the District of Columbia is authorized, if in his opinion such action shall be to the best interests of the District of Columbia, after July 11, 1919, to conduct any or all of the operations involved in the collection and disposal of city refuse of every kind as municipal functions, and for that purpose to purchase or lease the necessary plants, buildings, and land, to purchase or hire horses and horse-drawn vehicles, passenger-carrying and other motor-propelled vehicles, equipment, and machinery, and to employ expert and other personal services, and labor, and to pay traveling, maintenance, incidental, and contingent expenses; provided, that products arising from such operations conducted as authorized herein may be sold and the proceeds arising therefrom shall be paid for each fiscal year into the Treasury of the United States to the credit of the General Fund of the District of Columbia; provided further, that any or all operations herein authorized to be conducted as municipal functions may be put into effect as such upon the expiration of any of the contracts existing July 11, 1919, for the collection and disposal of city refuse or upon the failure of any of the contractors existing July 11, 1919, to properly perform the work covered by their contracts existing July 11, 1919; provided further, that it shall be unlawful for any employee of the District of Columbia engaged in the removal of garbage, ashes, miscellaneous refuse, dead animals, or night soil, or for any employee of a contractor doing such work for the District of Columbia, to accept any gift, except from his employer, in money or any other thing of value for any service performed in connection with the removal of city refuse as hereinbefore described; and it shall be unlawful for any person, firm, or corporation, except such employer, to pay or offer to pay, any money or to make any gift to any such employee for such service; that any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined in a sum of not less than \$5 nor more than \$40 for each such offense.

(c) The Mayor of the District of Columbia is authorized, if in his opinion such action shall be in the best interests of the District of Columbia, to conduct any or all of the operations involved in debris removal operations during a public service event, an emergency, or training, as municipal functions, and to enter into mutual aid agreements with neighboring jurisdictions, the federal government, and any agency of any neighboring jurisdiction or the federal government or a combination of the foregoing, for cooperation in the furnishing of debris removal operations during a public service event, an emergency, training, or for other purposes.

(July 11, 1919, 41 Stat. 39, ch. 6, § 2; Feb. 22, 1921, 41 Stat. 1144, ch. 70, § 7;



June 28, 1944, ch. 300, § 18, 58 Stat. 533; Mar. 21, 2009, D.C. Law 17-317, § 2, 56 DCR 209.)

**Prior Codifications.** — 1981 Ed., § 6-504. 1973 Ed., § 6-504.

**Effect of amendments.** — D.C. Law 17-317 rewrote the section, which had read as follows: “The Mayor of the District of Columbia is authorized, if in his opinion such action shall be to the best interests of the District of Columbia, after July 11, 1919, to conduct any or all of the operations involved in the collection and disposal of city refuse of every kind as municipal functions, and for that purpose to purchase or lease the necessary plants, buildings, and land, to purchase or hire horses and horse-drawn vehicles, passenger-carrying and other motor-propelled vehicles, equipment, and machinery, and to employ expert and other personal services, and labor, and to pay traveling, maintenance, incidental, and contingent expenses; provided, that products arising from such operations conducted as authorized herein may be sold and the proceeds arising therefrom shall be paid for each fiscal year into the Treasury of the United States to the credit of the General Fund of the District of Columbia; provided further, that any or all operations herein authorized to be conducted as municipal functions may be put into effect as such upon the expiration of any of the contracts existing July 11, 1919, for the collection and disposal of city refuse or upon the failure of any of the contractors existing July 11, 1919, to properly perform the work covered by their contracts existing July 11, 1919; provided further, that it shall be unlawful for any employee of the District of Columbia engaged in the removal of garbage, ashes, miscellaneous refuse, dead animals, or night soil, or for any employee of a contractor doing such work for the District of Columbia, to accept any gift, except from his employer, in money or any other thing of value for any service performed in connection with the removal of city refuse as hereinbefore described; and it shall be unlawful for any person, firm, or corporation, except such employer, to pay or offer to pay, any money or to make any gift to any such employee for such service; that any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined in a sum of not less than \$5 nor more than \$40 for each such offense.”

**Legislative history of Law 17-317.** — Law 17-317, the “Debris Removal Mutual Aid Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-590 which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on November 18, 2008, and December 2, 2008, respectively. Signed by

the Mayor on December 22, 2008, it was assigned Act No. 17-621 and transmitted to both Houses of Congress for its review. D.C. Law 17-317 became effective on March 21, 2009.

**Delegation of Authority.** — Delegation of Authority to the Director of the Department of Public Works to Conduct All Operations Involved in the Collection and Disposal of City Refuse at DPW Facilities, see Mayor’s Order 2006-145, October 20, 2006 (53 DCR 9345).

Delegation of Authority pursuant to Section 2 of the Debris Removal Mutual Aid Amendment Act of 2008, see Mayor’s Order 2009-123, July 8, 2009 (56 DCR 6875).

**Editor’s notes.** — Restriction on public works appropriation: Public Law 103-334, 108 Stat. 2580, the District of Columbia Appropriations Act, 1995, provided for Public Works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, \$195,002,000: Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

Restriction on public works appropriation: Public Law 104-194, 110 Stat. 2360, the District of Columbia Appropriations Act, 1997, provided for Public Works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, \$247,967,000 and 1,252 full-time equivalent positions (including \$234,391,000 and 1,149 full-time equivalent positions from local funds, \$3,047,000 and 32 full-time equivalent positions from Federal funds, and \$10,529,000 and 71 full-time equivalent positions from other funds): Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished



the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia,

respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### In general.

Where licenses issued for collection and transportation of solid wastes in or through the District of Columbia did not cover disposal of solid wastes in the District, separate disposal fee of \$5 per ton was a "license fee" authorized by statute, to the extent that the revenue therefrom was commensurate with the costs of supervision and regulation. D.C. Code §§ 1-226, 6-501, 6-504, 6-811, 6-812, 47-2344. *Metropolitan D. C. Refuse Haulers Asso. v. Washington*, 479 F.2d 1191, 1973 U.S. App. LEXIS 10459 (C.A.D.C. 1973).

The fact that District of Columbia might receive proceeds from disposal of garbage did not prevent collection thereof from being a governmental function. Act of June 14, 1935, c. 241, 49 Stat. 341, 351. *Loube v. District of Columbia*, 92 F.2d 473, 1937 U.S. App. LEXIS 4619 (1937).

The collection of garbage by District of Columbia involved exercise of governmental function and District was not liable for injuries sustained by passenger in street car which collided with garbage truck. Act of June 14, 1935, c. 241, 49 Stat. 341, 351. *Loube v. District of Columbia*, 92 F.2d 473, 1937 U.S. App. LEXIS 4619 (1937).

Municipality had authority to enact regulation imposing disposal charge on commercial refuse haulers even though no such charge was imposed on governmental agencies or for residential refuse. D.C. Code §§ 1-226, 6-501, 6-504, 6-811 et seq., 47-2344. *Metropolitan D. C. Refuse Haulers Asso. v. Washington*, 360 F. Supp. 281, 1972 U.S. Dist. LEXIS 14429 (1972), affirmed by 479 F.2d 1191, 156 U.S. App. D.C. 208, 1973 U.S. App. LEXIS 10459 (1973).

### § 8-705. Incinerators for combustible refuse — Condemnation of sites authorized.

(a) The Mayor of the District of Columbia is authorized to acquire, by purchase at such price or prices as, in his judgment, he may deem reasonable and fair, or in the discretion of the Mayor, by condemnation, in accordance with the provisions of Chapter 13 of Title 16, under a proceeding or proceedings in rem instituted in the Superior Court of the District of Columbia, 2 suitable and properly located sites in the District of Columbia, 1 in the southeastern section not exceeding 100,000 square feet in area, and 1 in Georgetown, not exceeding 49,000 square feet in area: provided, that the location of said sites shall be approved by the National Capital Planning Commission before purchase or the institution of proceedings for condemnation thereof; provided, that if the said sites or any part thereof be condemned the said Mayor shall be entitled to enter immediately into possession of any property for which an award shall have been made by paying the amount of such award into the registry of the Superior Court of the District of Columbia; provided further, that authority is hereby granted to occupy, in addition to the site to be acquired in the southeastern section, such public highways and alleys or parts of public highways and alleys as abut or fall within said site, but the owners of abutting property shall not be denied the use of such highways or parts of highways for ingress and egress.

(b) Nothing shall prevent the Mayor from designating, selecting, or acquiring another site or sites that may be suitable for the purpose of refuse disposal. Any proposed site selected by the Mayor after October 9, 1987, shall be

submitted to the Council of the District of Columbia ("Council") for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed site, in whole or in part, by resolution within this 45-day review period, the proposed site shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 5 of Title 2.

(Mar. 4, 1929, 45 Stat. 1549, ch. 688, § 1; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, §§ 155(c)(21), 166(c); Oct. 9, 1987, D.C. Law 7-38, § 6, 34 DCR 5326.)

**Section references.** — This section is referenced in § 8-707, § 8-708, § 8-709, and § 8-710.

**Prior Codifications.** — 1981 Ed., § 6-505. 1973 Ed., § 6-505.

**Legislative history of Law 7-38.** — Law 7-38, the "Litter Control Expansion Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-169, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on June 30, 1987, and July 14, 1987, respectively. Signed by the Mayor on July 23, 1987, it was assigned Act No. 7-66 and transmitted to both Houses of Congress for its review.

**Transfer of Functions.** — The functions, powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

**Change in Government.** — This section

originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 8-706. Incinerators for combustible refuse — Construction authorized.

The said Mayor of the District of Columbia is authorized to erect upon each of said sites a modern, high-temperature refuse incinerator and the necessary equipment for its efficient operation, the combined capacity of such incinerators to be sufficient to consume the entire production of combustible refuse, including street sweepings, in the District of Columbia; and the said Mayor is further authorized to do such grading and fencing of the sites as may be necessary, and to construct buildings for the storage of equipment.

(Mar. 4, 1929, 45 Stat. 1549, ch. 688, § 2.)

**Section references.** — This section is referenced in § 8-711.

**Prior Codifications.** — 1981 Ed., § 6-506. 1973 Ed., § 6-506.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commis-

sioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners



under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced

by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### **§ 8-707. Incinerators for combustible refuse — Commencement of operation; other manner of disposal prohibited; exceptions; enforcement.**

The Mayor of the District of Columbia shall give reasonable public notice thereof and shall fix a date after which all combustible refuse collected by public or private agencies in the District of Columbia shall be delivered at the incinerators herein provided for, for disposal, except that hotels, apartment houses, business houses, or residences may dispose of their own refuse in their own incinerators; provided, that such incinerators are inspected and approved for use by the proper agency of the District of Columbia; and after such date it shall be unlawful for any person, firm, company, or corporation to dispose of any combustible refuse in any other manner or at any other place than that prescribed by the said Mayor; provided, however, that nothing in §§ 8-705 to 8-710 shall prohibit or prevent the sale of salvageable material by the owners thereof or by the Mayor of the District of Columbia. The Council of the District of Columbia is hereby empowered and authorized to make, and the Mayor is hereby empowered and authorized to enforce, such regulations as the Council may deem necessary and proper to carry out the purposes of §§ 8-705 to 8-710.

(Mar. 4, 1929, 45 Stat. 1549, ch. 688, § 3.)

**Prior Codifications.** — 1981 Ed., § 6-507.  
1973 Ed., § 6-507.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(140) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### **§ 8-708. Incinerators for combustible refuse — Penalties.**

From and after the date when the incinerators herein authorized to be constructed shall be in operation it shall be unlawful for any person, firm, company, or corporation to burn or in any way dispose of combustible refuse in any manner or at any place other than that prescribed by the Mayor of the District of Columbia, except as hereinbefore designated. A violation of the provisions of §§ 8-705 to 8-710 shall be a misdemeanor; and, upon conviction thereof, the person, firm, company, or corporation so charged shall be fined not



more than \$100 for each and every offense, or confined in the District of Columbia jail for a period not exceeding 60 days, or both, in the discretion of the courts. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(Mar. 4, 1929, 45 Stat. 1549, ch. 688, § 4; Oct. 5, 1985, D.C. Law 6-42, § 458, 32 DCR 4450.)

**Prior Codifications.** — 1981 Ed., § 6-508.

**Legislative history of Law 6-42.** — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmen-

tal Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 8-709. Incinerators for combustible refuse— Purchase of machinery and employment of personnel authorized.

In order to dispose of combustible refuse in the manner provided by §§ 8-705 to 8-710, the Mayor of the District of Columbia is authorized to purchase motor trucks and trailers and other means of transportation, to install additional equipment, buildings, and machinery, and to employ personal services and labor.

(Mar. 4, 1929, 45 Stat. 1550, ch. 688, § 5.)

**Prior Codifications.** — 1981 Ed., § 6-509. 1973 Ed., § 6-509.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## **§ 8-710. Incinerators for combustible refuse — Appropriation authorized; abandonment of leased plant.**

A sum not exceeding \$850,000 is hereby authorized to be appropriated, in like manner as other appropriations, for the expenses of the District of Columbia, for sites, buildings, equipment, and other construction work authorized by §§ 8-705 to 8-710, of which amount \$25,000 or so much thereof as may be necessary may be expended for the employment of 1 or more experts for engineering for preparation of plans and specifications; and, upon completion of the incinerators herein provided for, the Mayor of the District of Columbia shall abandon the use of the leased plant at Montello Avenue and Mount Olivet Road Northeast.

(Mar. 4, 1929, 45 Stat. 1550, ch. 688, § 6.)

**Prior Codifications.** — 1981 Ed., § 6-510.  
1973 Ed., § 6-510.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## **§ 8-711. Incinerators for combustible refuse — Use by certain Maryland and Virginia municipalities.**

The Mayor of the District of Columbia is authorized to enter into agreement with the Board of County Commissioners of Montgomery County, State of Maryland; the Board of County Commissioners of Prince Georges County, State of Maryland; the Arlington County Board, State of Virginia, and/or with the several municipalities, taxing areas, and communities within the Counties aforesaid having power and authority to enter into such agreements, said agreements to permit said Counties, municipalities, taxing areas, and communities to dispose of combustible material in the incinerators built by the District of Columbia under authority of § 8-706, in such kind and quantities, at such times, and for such fees as the Council of the District of Columbia shall specify; provided, that said Counties, municipalities, taxing areas, and communities shall make collections of such material with their own equipment and shall obtain permits from the District of Columbia for hauling or transporting the material over routes within the District of Columbia to be designated by the said Council. The Mayor shall have the right to suspend or revoke such agreements if found necessary for the proper and successful operation of these incinerators, or for any other reason.

(May 15, 1930, 46 Stat. 334, ch. 286.)

**Prior Codifications.** — 1981 Ed., § 6-511. 1973 Ed., § 6-511.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(141) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.



## CHAPTER 7A. TRASH COLLECTION NOISE VIOLATION ABATEMENT.

Sec.

8-731. Complaints of trash collection noise violations; hearings; notice of infraction.

Sec.

8-732. Rules.

**§ 8-731. Complaints of trash collection noise violations; hearings; notice of infraction.**

(a) Any person may file a complaint of a trash collection noise violation with the Mayor.

(b) A complaint under subsection (a) of this section shall be submitted in written form prescribed by the Mayor and made available on the District of Columbia website. The complaint shall be submitted within one week of the alleged violation and shall be signed by an original complainant who shall attest to its accuracy, under penalty of perjury. The complaint shall include:

(1) The name of the individual or company alleged to have violated section 2806 of Title 20 of the District of Columbia Municipal Regulations;

(2) The location of the alleged violation;

(3) The date and time of the alleged violation; and

(4) Any additional identifying information about the trash truck or its driver.

(c) A District inspector need not witness a violation for a complaint to be valid.

(d) A complainant under subsection (a) of this section may appear and give testimony at any administrative hearing or administrative review of the complaint, or any other judicial or quasi-judicial action that may result from the complaint.

(e) If the Mayor deems that the complaint has merit, the Mayor shall file a Notice of Infraction pursuant to Chapter 18 of Title 2 and with the Office of Administrative Hearings.

(f) This section shall not apply to complaints relating to Department of Public Works trash trucks.

(Nov. 19, 2008, D.C. Law 17-259, § 2, 55 DCR 10881.)

**Legislative history of Law 17-259.** — Law 17-259, the “Trash Collection Noise Violations Abatement Act of 2008”, was introduced in Council and assigned Bill No. 17-365 which was referred to the Committee Public Works and the Environment. The Bill was adopted on first and second readings on July 15, 2008, and September 16, 2008, respectively. Signed by the

Mayor on September 29, 2008, it was assigned Act No. 17-510 and transmitted to both Houses of Congress for its review. D.C. Law 17-259 became effective on November 19, 2008.

**Delegation of Authority.** — Delegation of Authority—Trash Collection Noise Violations Abatement Act of 2008, see Mayor’s Order 2009-28, March 16, 2009 (56 DCR 6764).

**§ 8-732. Rules.**

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this chapter.

(Nov. 19, 2008, D.C. Law 17-259, § 3, 55 DCR 10881.)

**Cross references.** — Illegal dumping, enforcement, see § 8-903.

Illegal dumping, forfeitures, see § 8-905.

Illegal dumping, prohibition and penalties, see § 8-902.

Licensure, clean hands requirement, prohibition against issuance of licenses, see § 47-2862.

Solid waste management and multi-material recycling, fines and penalties, see § 8-1017.

**Legislative history of Law 17-259.** — For Law 17-259, see notes following § 8-731.

## CHAPTER 8. LITTER CONTROL ADMINISTRATION.

Sec.

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- 8-802. Enforcement of regulations.
- 8-803. Investigation and notice of nuisance.
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## § 8-801. Purpose of chapter.

The purpose of this chapter is to provide civil sanctions and to eliminate criminal liability for violating a variety of local laws and rules, to provide for civil enforcement of these violations, and to establish an expeditious administrative adjudicative system.

(Mar. 25, 1986, D.C. Law 6-100, § 2, 33 DCR 781.)

**Section references.** — This section is referenced in § 47-2829 and § 47-2862.

**Prior Codifications.** — 1981 Ed., § 6-2901.

**Legislative history of Law 6-100.** — Law 6-100, the “Litter Control Administrative Act of 1985,” was introduced in Council and assigned Bill No. 6-297, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on December 17, 1985, and January 14, 1986, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-128 and transmitted to both Houses of Congress for its review.

**Delegation of Authority.** — Delegation of authority pursuant to Law 6-100, see Mayor’s Order 86-160, September 19, 1986.

Delegation of Authority Pursuant to DC Law 6-100, the “Litter Control Administration Act of 1985;” DC Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985;” DC Law 5-165, the “DC Air Pollution Control Act of 1984;” DC Law 13-172, the “Rodent Control Act of 2000;” and DC Law 6-126, the “Construction Codes Approval and Amendments Act of 1986,” see Mayor’s Order 2002-5, February 1, 2002 (49 DCR 911).

**Mayor’s Orders.** — D.C. Office of the Clean City Coordinator, see Mayor’s Order 2001-31, March 1, 2001 (48 DCR 2383).

## § 8-802. Enforcement of regulations.

(a)(1) The Mayor of the District of Columbia (“Mayor”) shall enforce the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226); D.C. Official Code § 8-1001 *et seq.*, §§ 601, 603, 604, 605, 606(a), (c), and (h), 607(a), (b), (c), (d), (e), (f), (g), (h), and (j), 608(a), 609(a), and 612 of Chapter 3 in Title 8 of the District of Columbia Health Regulations, enacted June 29, 1971 (Reg. 71-21; 21 DCMR 700.1 *et seq.*), §§ 3, 4, 5, 6, and 7 of Solid Waste Collection: Containers to be Used, effective February 21, 1973 (19 DCR 497; 21 DCMR 708), a number of rules recorded in § 2221.6, 2407.12, and 2407.13 of 18 DCMR, §§ 101, 102, 103, 104, 900.7, 900.8, 900.10, 1000, 1001, 1002, 1005, 1008, 1009, 2000, 2001, 2002, and 2010 of 24 DCMR, and any rules relating to signs on public space, public buildings, or other property owned or controlled by the District issued pursuant to sections 1 and 4 of An Act To regulate the erection, hanging, placing, painting, display, and maintenance of outdoor signs and other forms of exterior advertising within the District of Columbia,



approved March 3, 1931 (46 Stat. 1486; D.C. Official Code §§ 1-303.21 and 1-303.23).

(2) Violations of the regulations listed in paragraph (1) of this subsection shall be subject to the civil administrative system and the civil sanctions provided in this chapter.

(b) The adjudication system shall comply with Chapter 5 of Title 2 [§ 2-501 et seq.].

(Mar. 25, 1986, D.C. Law 6-100, § 3(a), (b), 33 DCR 781; Oct. 9, 1987, D.C. Law 7-38, § 2(a), 34 DCR 5326; Mar. 16, 1989, D.C. Law 7-226, § 19(a), 36 DCR 595; Feb. 5, 1994, D.C. Law 10-68, § 17, 40 DCR 6311; Oct. 19, 2000, D.C. Law 13-172, § 909(a), 47 DCR 6308; Nov. 16, 2006, D.C. Law 16-175, § 2, 53 DCR 6499; Mar. 20, 2009, D.C. Law 17-314, § 2(a), 56 DCR 200; Mar. 25, 2009, D.C. Law 17-353, § 124(a), 56 DCR 1117; Apr. 27, 2013, D.C. Law 19-289, § 4, 60 DCR 2328.)

**Section references.** — This section is referenced in § 2-1831.03, § 8-803, § 8-807, § 8-808, § 8-811, § 8-812, and § 8-902.

**Prior Codifications.** — 1981 Ed., § 6-2902.

**Effect of amendments.** — D.C. Law 13-172, in par. (a)(1) following “(‘Mayor’),” removed the phrase “, through the Department of Public Works”, struck the last sentence of the paragraph, which had read, “The Department of Public Works shall hear contested cases arising from violations of the regulations listed in this section in accordance with the adjudicative system provided in §§ 6-2904, 6-2905, and 6-2908.”, and substituted “Contested cases arising from violations of the regulations listed in this section shall be adjudicated in accordance with the system provided in sections 5, 6, and 9.” in its place.

D.C. Law 16-175, in subsec. (a)(1), substituted “and a number of rules recorded in §§ 2407.12 and 2407.13 of 18 DCMR” for “and a number of rules recorded in”.

D.C. Law 17-314, in subsec. (a)(1), substituted “§§ 2221.6, 2407.12, and 2407.13” for “§§ 2407.12 and 2407.13”.

D.C. Law 17-353 validated a previously made technical correction in the punctuation in subsec. (a)(1).

The 2013 amendment by D.C. Law 19-289 rewrote (a)(1).

**Temporary legislation.** — Section 4 of D.C. Law 19-181 amended (a)(1) to read as follows:

“(a) (1) The Mayor of the District of Columbia (‘Mayor’) shall enforce the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226; D.C. Official Code § 8-1001 et seq.), §§ 601, 603, 604, 605, 606(a), (c), and (h), 607(a), (b), (c), (d), (e), (f), (g), (h), and (j), 608(a), 609(a), and 612 of Chapter 3 in Title 8 of the District of Columbia Health Regulations, enacted June 29, 1971 (Reg. 71-21; 21 DCMR

700.1 et seq.), §§ 3, 4, 5, 6, and 7 of Solid Waste Collection: Containers to be Used, effective February 21, 1973 (19 DCR 497; 21 DCMR 708), a number of rules recorded in §§ 2221.6, 2407.12, and 2407.13 of 18 DCMR, §§ 101, 102, 103, 104, 900.7, 900.8, 900.10, 1000, 1001, 1002, 1005, 1008, 1009, 2000, 2001, 2002, and 2010 of 24 DCMR, and any rules relating to signs on public space issued pursuant to section 1 of An Act To regulate the erection, hanging, placing, painting, display, and maintenance of outdoor signs and other forms of exterior advertising within the District of Columbia, approved March 3, 1931 (46 Stat. 1486; D.C. Official Code § 1-303.21).”

Section 8 of D.C. Law 19-181 provided that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Section 9 of D.C. Law 19-181 provided that sections 3, 4, 5, 6, and 7 of the act shall apply upon the Mayor’s issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act.

Section 11(b) of D.C. Law 19-181 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90-day) amendment of section, see § 909(a) of the Fiscal Year 2001 Budget Support Emergency Act of 2000 (D.C. Act 13-376, July 24, 2000, 47 DCR 6574).

For temporary (90 day) amendment of section, see § 909(a) of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

For temporary (90 day) amendment of section, see § 4 of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary amendment of (a)(1), see § 4 of the Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-499, October 26, 2012, 59 DCR 12749), applicable after the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property, and with the condition that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

**Legislative history of Law 6-100.** — For legislative history of D.C. Law 6-100, see Historical and Statutory Notes following § 8-801.

**Legislative history of Law 7-38.** — Law 7-38, the "Litter Control Expansion Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-169, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on June 30, 1987, and July 14, 1987, respectively. Signed by the Mayor on July 23, 1987, it was assigned Act No. 7-66 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-266.** — Law 7-266, the "District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988," was introduced in Council and assigned Bill No. 7-378, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 10, 1989, it was assigned Act No. 7-301 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 10-68.** — D.C. Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

**Legislative history of Law 13-172.** — Law 13-172, the "Fiscal Year 2001 Budget Support Act of 2000," was introduced in Council and assigned Bill No. 13-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 18, 2000, and June 6, 2000, respectively. Signed

by the Mayor on June 26, 2000, it was assigned Act No. 13-375 and transmitted to both Houses of Congress for its review. D.C. Law 13-172 became effective on October 19, 2000.

**Legislative history of Law 16-175.** — Law 16-175, the "Parking Amendment Act of 2006," was introduced in Council and assigned Bill No. 16-536 which was referred to the Committee on Public Works and environment. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 21, 2006, it was assigned Act No. 16-453 and transmitted to both Houses of Congress for its review. D.C. Law 16-175 became effective on November 16, 2006.

**Legislative history of Law 17-314.** — Law 17-314, the "Anti-Littering Amendment Act of 2008," was introduced in Council and assigned Bill No. 17-26 which was referred to the Committees on Public Safety and the Judiciary, Public Works and the Environment. The Bill was adopted on first and second readings on November 18, 2008, and December 2, 2008, respectively. Signed by the Mayor on December 22, 2008, it was assigned Act No. 17-618 and transmitted to both Houses of Congress for its review. D.C. Law 17-314 became effective on March 20,

**Legislative history of Law 19-289.** — Law 19-289, the "Sign Regulation Authorization Amendment of 2012," was introduced in Council and assigned Bill No. 19-819. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 29, 2013, it was assigned Act No. 19-656 and transmitted to Congress for its review. D.C. Law 19-289 became effective on Apr. 27, 2013.

**References in text.** — The "District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988," referred to in the first sentence of subsection (a)(1), is D.C. Law 7-226.

**Editor's notes.** — Section 9 of D.C. Law 19-289 provided: "Any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded."

Section 10 of D.C. Law 19-289 provided: "Applicability. Sections 3, 4, 5, 6, 7, and 8 shall not apply until the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2."

## CASE NOTES

### Due process.

Civil fines may lawfully, consistent with due process, penalize regulatory infractions on basis of strict liability, particularly if fines are

modest. U.S. Const. Amend. 14. *Bruno v. District of Columbia Bd. of Appeals & Review*, 665 A.2d 202, 1995 D.C. App. LEXIS 186 (1995).



**§ 8-803. Investigation and notice of nuisance.**

(a) For the purposes of this chapter, the term “nuisance” means a condition or circumstance violative of the provisions listed in § 8-802(a).

(b) The Mayor may, consistent with constitutional safeguards, enter a nonresidential premises and inspect and investigate an allegation about a nuisance. The Mayor may act upon the Mayor’s own information or observation or upon the information or the observation of another person.

(b-1) At least 4 inspectors in the Department of Public Works Solid Waste Education and Enforcement Program shall be designated as Vector Control SWEEP inspectors. The primary responsibility of the Vector Control SWEEP inspectors shall be to investigate:

(1) High-rodent infestation areas; and

(2) The compliance of housing providers with all solid waste regulations enforced by the Department of Public Works relating to the proper storage of solid waste intended to prevent the provision of food, harborage, or breeding places for insects or rodents.

(b-2) The Department shall identify areas in the District most in need of additional vector control resources and shall focus the efforts of the inspectors designated as Vector Control SWEEP inspectors on those areas.

(c)(1) If the Mayor finds on the premises a nuisance actionable under this chapter, then, after the inspection and the investigation, the Mayor shall issue a notice of violation to the person alleged to have created the nuisance or to the property owner.

(2) The notice of violation may be served on the owner, the owner’s authorized agent, the building superintendent, the operator of equipment, or any other responsible individual at the premises or the Mayor may deliver the notice by certified mail to the owner of the premises or to the person responsible for the nuisance or the Mayor may post the notice in a conspicuous place on the premises in violation. If the owner cannot be identified with reasonable certainty, the Mayor may conspicuously post the notice on the premises alleged to be in violation and deliver a copy of the notice to the Director of the Department of Finance and Revenue pursuant to paragraph (3) of this subsection.

(3) The Director of the Department of Finance and Revenue is authorized to receive notices of violation of this chapter on behalf of any resident or non-resident person who owns property in the District, if the person has not provided to the Director of the Department of Finance and Revenue a mailing address. The Director of the Department of Public Works shall post a copy of the notice served on the Director of the Department of Finance and Revenue in a conspicuous place on the property.

(d) The Mayor shall prepare the notice of violation and include in it the following:

(1) The location, date, and time that the nuisance took place or that the Mayor investigated the nuisance;

(2) The law or regulation violated;

(3) The amount of the fine assessed;



- (4) The action necessary to abate the nuisance;
  - (5) The person's right to request a hearing on the alleged nuisance and the procedure for making the request;
  - (6) The manner, location, and time for paying the fine or arranging a hearing;
  - (7) A statement that failure to answer the notice of violation within 14 calendar days after the notice has been issued may result in additional penalties; and
  - (8) Reinspection information, which includes the date and time of the reinspection and the condition that the property should be in at the time of reinspection.
- (e) The Department of Public Works shall keep a copy of the notice of violation and shall attach to it a certificate attesting to the manner that the Mayor issued the notice.

(Mar. 25, 1986, D.C. Law 6-100, § 4, 33 DCR 781; Sept. 20, 1989, D.C. Law 8-31, § 2(a)-(d), 36 DCR 4750; Sept. 18, 2007, D.C. Law 17-20, § 6112, 54 DCR 7052.)

**Prior Codifications.** — 1981 Ed., § 6-2903.

**Effect of amendments.** — D.C. Law 17-20 added subsecs. (b-1) and (b-2).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 6112 of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

**Legislative history of Law 6-100.** — For legislative history of D.C. Law 6-100, see Historical and Statutory Notes following § 8-801.

**Legislative history of Law 8-31.** — Law 8-31, the "District of Columbia Solid Waste Regulations Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-135, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on May 30, 1989 and June 13, 1989, respectively. Signed by the Mayor on June 27, 1989, it was assigned Act No. 8-54 and

transmitted to both Houses of Congress for its review.

**Legislative history of Law 17-20.** — For Law 17-20, see notes following § 8-651.07.

**Short title.** — Short title: Section 6111 of D.C. Law 17-20 provided that subtitle L of title VI of the act may be cited as the "Vector Control SWEEP Inspectors Designation Amendment Act of 2007".

**References in text.** — Pursuant to the Office of the Chief Financial Officer's "Notice of Public Interest" published in the April 18, 1997, issue of the District of Columbia Register (44 DCR 2345) the Office of Tax and Revenue assumed all of the duties and functions previously performed by the Department of Finance and Revenue, as set forth in Commissioner's Order 69-96, dated March 7, 1969. This action was made effective January 22, 1997, *nunc pro tunc*.

## CASE NOTES

### Due process.

Statute which made clear that fine for permitting accumulation of uncontainerized litter could be assessed concurrently with issuance of notice to abate gave all notification required by due process, despite fined property owner's claim that due process required notice of violation and opportunity to abate prior to imposition of civil fine; system of comparatively modest fines, instantly \$50, imposed for violations without affording violator opportunity to abate reasonably furthers objective of anti-litter law. U.S. Const. Amend. 14; D.C. Code 1981, § 6-

2903(d); D.C. Mun. Regs. title 21, § 700.3. *Bruno v. District of Columbia Bd. of Appeals & Review*, 665 A.2d 202, 1995 D.C. App. LEXIS 186 (1995).

Due process did not require District of Columbia to establish scienter on part of property owner prior to levying fine against owner for permitting accumulation of uncontainerized litter. U.S. Const. Amend. 14; D.C. Code 1981, § 6-2903(d); D.C. Mun. Regs. title 21, § 700.3. *Bruno v. District of Columbia Bd. of Appeals & Review*, 665 A.2d 202, 1995 D.C. App. LEXIS 186 (1995).

## § 8-804. Response to notice of violation.

(a) In response to a notice of violation, a person issued a notice may do 1 of the following:

- (1) Admit the violation;
- (2) Admit the violation, but with an explanation; or
- (3) Deny the violation.

(b) Except as provided in subsection (c) of this section, no response other than those listed in subsection (a) of this section shall be regarded as an answer.

(c) A person who appears at an administrative hearing pursuant to § 8-805 and refuses to respond by admitting, by admitting with explanation, or by denying the violation shall be regarded as having denied the violation according to subsection (a)(3) of this section.

(d) A person admitting the violation shall pay the civil fine in person or by mail and shall certify on the back of the notice that the nuisance has been abated. If upon reinspection it is revealed that the nuisance still exists, the Mayor may impose the sanction provided in § 8-807(d).

(e) A person admitting the violation with explanation or a person denying the violation shall schedule a hearing within 14 calendar days after the date the Mayor issued the notice.

(f) If a person to whom a notice of violation has been issued fails to respond to the notice within 14 calendar days after the date the notice was issued, then the person shall be liable for a penalty equal to the civil fine plus the costs of abating the nuisance or of preventing the violation from recurring as provided in § 8-807(c)(2) and (d).

(Mar. 25, 1986, D.C. Law 6-100, § 5, 33 DCR 781; Sept. 20, 1989, D.C. Law 8-31, § 2(e), 36 DCR 4750.)

**Section references.** — This section is referenced in § 8-802 and § 8-807.

**Prior Codifications.** — 1981 Ed., § 6-2904.

**Legislative history of Law 6-100.** — For legislative history of D.C. Law 6-100, see Historical and Statutory Notes following § 8-801.

**Legislative history of Law 8-31.** — For legislative history of D.C. Law 8-31, see Historical and Statutory Notes following § 8-803.

### CASE NOTES

#### **Substantive violation.**

Property owner could not be required to pay a fine for a late response to citation for alleged violation of Litter Control Act, where underlying substantive violation was not established; although statutory provisions could be read to allow imposition of a late-response fine without an underlying violation, an evident association

between the lateness penalty and a substantive violation existed in all provisions dealing directly with the issue, and the notion of a fine for an untimely pleading, without any showing of prejudice, was at least unfamiliar and perhaps unique. *Washington v. D.C. Dep't of Pub. Works*, 954 A.2d 945, 2008 D.C. App. LEXIS 329 (2008).

## § 8-805. Hearing.

(a) A hearing for judging a violation actionable under this chapter shall be

held before a hearing examiner referred to in § 8-808, and the hearing shall be conducted according to subchapter I of Chapter 5 of Title 2.

(b)(1) After due consideration of the evidence and arguments made at the hearing, the hearing examiner shall determine whether the violation has been established by a preponderance of evidence.

(2) Where a determination is made that a violation is not established, an order dismissing the charge shall be entered.

(3) Where a determination is made that the violation has been established, an appropriate order shall be entered in the records of the hearing.

(c) In the case of a person who is found liable for a violation, the hearing examiner may order the respondent to do any or all of the following:

(1) To abate the nuisance;

(2) To pay the civil fine established or stated in § 8-807(b) and (c); or

(3) If the person consents, to perform a specified number of hours of volunteer community service as provided for in § 8-807(e) and in rules required by § 8-810.

(d) An order rendered pursuant to a determination that a violation has been established, or pursuant to the receipt of a response admitting the violation, shall be a civil order.

(e) A person who has responded to a notice of violation and fails, without good cause, to appear at the scheduled hearing shall be liable for a penalty equal to twice the amount of the civil fine plus any costs of abating or preventing the violation consistent with provisions of § 8-807.

(f) If a person to whom a notice of violation has been issued fails to appear at a hearing, then the hearing examiner may proceed with the hearing and render a final disposition of the case.

(g) Repealed.

(Mar. 25, 1986, D.C. Law 6-100, § 6, 33 DCR 781; May 20, 1994, D.C. Law 10-117, § 8(a)(1), 41 DCR 524; Mar. 6, 2002, D.C. Law 14-78, § 2(a), 48 DCR 11262).)

**Section references.** — This section is referenced in § 8-802, § 8-804, § 8-806, § 8-808, and § 8-810.

**Prior Codifications.** — 1981 Ed., § 6-2905.

**Effect of amendments.** — D.C. Law 14-78 repealed subsec. (g) which had read:

“(g) Subject to the enactment of appropriations, civil fines, solid waste disposal fees, and other related fees collected from solid waste disposers and the proceeds from the sale of forfeited conveyances shall be used to offset the cost of implementing this chapter, and abating solid waste nuisances. Subject to the enactment of appropriations, excess monies shall be used to fund recycling activities in accordance with § 8-1015.”

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 7(a)(1) of Illegal Dumping Enforcement Temporary Act of 1993 (D.C. Law 10-62, No-

vember 20, 1993, law notification 40 DCR 8455).

**Emergency legislation.** — For temporary amendments of section, see § 7(a)(1) of the Illegal Dumping Enforcement Emergency Act of 1993 (D.C. Act 10-89, August 4, 1993, 40 DCR 6074) and § 7(a)(1) of the Illegal Dumping Enforcement Congressional Recess Emergency Act of 1993 (D.C. Act 10-138, November 1, 1993, 40 DCR 7741).

**Legislative history of Law 6-100.** — For legislative history of D.C. Law 6-100, see Historical and Statutory Notes following § 8-801.

**Legislative history of Law 10-117.** — Law 10-117, the “Illegal Dumping Enforcement Act of 1994,” was introduced in Council and assigned Bill No. 10-249, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on December 7, 1993, and



January 4, 1994, respectively. Signed by the Mayor on January 25, 1994, it was assigned Act No. 10-181 and transmitted to both Houses of Congress for its review. D.C. Law 10-117 became effective on May 20, 1994.

**Legislative history of Law 14-78.** — Law 14-78, the “Litter Control Administration Amendment Act of 2001”, was introduced in Council and assigned Bill No. 14-226, which

was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on October 2, 2001, and November 6, 2001, respectively. Signed by the Mayor on November 29, 2001, it was assigned Act No. 14-198 and transmitted to both Houses of Congress for its review. D.C. Law 14-78 became effective on March 6, 2002.

## CASE NOTES

### ANALYSIS

Substantive violation.

Timely appearance.

#### Substantive violation.

Property owner could not be required to pay a fine for a late response to citation for alleged violation of Litter Control Act, where underlying substantive violation was not established; although statutory provisions could be read to allow imposition of a late-response fine without an underlying violation, an evident association between the lateness penalty and a substantive violation existed in all provisions dealing directly with the issue, and the notion of a fine for an untimely pleading, without any showing of

prejudice, was at least unfamiliar and perhaps unique. *Washington v. D.C. Dep’t of Pub. Works*, 954 A.2d 945, 2008 D.C. App. LEXIS 329 (2008).

#### Timely appearance.

The rules allowing an ALJ of the Office of Administrative Hearings (OAH) to conduct a hearing, grant default judgment, and impose penalties in a party’s absence when the party fails to appear reflect OAH’s determination that parties are strictly obliged to appear in timely fashion on the day of a hearing and that a weighty and convincing justification is required to excuse failure to do so. *Prime v. D.C. Dep’t of Pub. Works*, 955 A.2d 178, 2008 D.C. App. LEXIS 444 (2008).

## § 8-806. Reinspection of premises.

(a) The Mayor shall reinspect a premises for which a notice of violation has been issued and for which abatement has been required.

(b) The reinspection shall occur within a reasonable time of the date of issuance of the notice of violation or within a reasonable time of a hearing examiner order pursuant to § 8-805(c), and the reinspection shall be for the purposes of assessing and verifying the abatement.

(c) If the Mayor determines that the nuisance has not been abated satisfactorily, then the Mayor shall abate the nuisance and may impose the sanction provided in § 8-807(d).

(Mar. 25, 1986, D.C. Law 6-100, § 7, 33 DCR 781.)

**Prior Codifications.** — 1981 Ed., § 6-2906.  
**Legislative history of Law 6-100.** — For

legislative history of D.C. Law 6-100, see Historical and Statutory Notes following § 8-801.

## § 8-807. Penalties for violations.

(a) The Mayor may impose any or all sanctions stated in this section.

(b)(1) The Mayor shall prepare and the Council of the District of Columbia (“Council”) shall approve a schedule of fines for violating rules listed in § 8-802, and the fines, when adopted, shall be printed in the D.C. Register and in 1 or more of the daily newspapers published in the District of Columbia (“District”).

(2) The schedule shall not be enforced until 30 days after publication in the D.C. Register.

(3) The Mayor may modify this schedule of fines by rulemaking. The modification shall become effective at the end of 45 calendar days unless the Council, during the 45-day period, adopts a resolution disapproving the Mayor's modification.

(c) In addition to the civil fine permitted under subsection (b) of this section, the following penalties may be imposed:

(1) In the case of a person receiving a notice of violation who fails to answer the notice within the time specified by § 8-804(f), a penalty equal to the amount of the civil fine; and

(2) In the case of a person receiving a notice of violation who answers but fails without good cause to appear on the date scheduled for the hearing, a penalty equal to twice the amount of the civil fine.

(d) The Mayor may recover up to 3 times the cost and expense incurred by the Mayor for abating the nuisance, preventing the recurrence of the violation, and cleaning and clearing the site where the unlawful disposal occurred and for properly disposing of the solid waste.

(d-1) The Mayor or hearing examiner may suspend or refuse to reissue any permit or license which authorizes the respondent to engage in the activity to which the sanction relates, or which otherwise substantially relates to the violation, if the respondent fails to pay any fines, penalties, interest, costs, or expense imposed pursuant to this chapter. Suspension of the permit or license shall continue until payment is made.

(e) The hearing examiner may agree with the person subject to penalties under this section to allow an alternative sanction requiring the respondent to perform, on a voluntary basis, a specific number of hours of community service comparable to the severity of the violation. The assignment will be made by the hearing examiner according to rules provided for by § 8-810 and in conjunction with a representative of the District of Columbia Department of Public Works.

(f)(1)(A) The amount to be paid under a notice of violation and any other charges, expenses, costs, penalties, and interest shall be a continuing and perpetual lien in favor of the District upon all real and personal property belonging to a person named in the notice and shall have the same force and effect as a lien created by judgment. Interest shall accrue on the amount due as provided in subsection (h) of this section.

(B) The lien shall attach to all property belonging to the named person at any time during the period of the lien, including any property acquired by the named person after the lien arises.

(C) The lien shall have priority over all other liens, except liens for District taxes and District water charges; provided, that the lien shall not be valid as against any bona fide purchaser, or holder of a security interest, mechanic's lienor or other such creditor interested in the property, without notice, until notice by filing the lien in the Recorder of Deeds. The lien shall be satisfied by payment of the amount of the lien to the agency that issued the notice.

(D) For reasonable cause shown, the Mayor may abate the amount of the notice and any other charge, expense, penalty, or interest.

(E) The Mayor may contract with any individual or business to collect the amount of the lien and remunerate the individual or business by fee, by a percentage of the amount collected, or both.

(2) As additional means for collection, the Mayor may enforce payment of the fines, other charges, expenses, costs, penalties, or interest imposed against the real property of the named person as follows:

(A) The agency that issues the notice shall record, with the Recorder of Deeds, and in accordance with § 47-1340, a real property tax lien captioned "Notice of Converted Real Property Tax Lien". The real property tax lien shall be deemed a delinquent real property tax from the date of the conversion, shall accrue interest at the rate of interest charged for delinquent real property tax, and shall be perpetual. Subject to § 47-1340(f), payment thereof shall be credited to the General Fund of the District of Columbia. The real property may be sold at tax sale, regardless of the date of the conversion, in the same manner, under the same conditions, and subject to the same impositions of interest, costs, expenses, fees, and other charges, as real property sold for delinquent real property tax.

(B) The aggregate amount of the fines, charges, expenses, costs, penalties, and interest secured by the lien imposed under paragraph (1) of this subsection may appear on a real property tax bill, and the aggregate amount shall be:

(i) Deemed an additional real property tax to be collected in the same manner and under the same conditions as real property tax is collected, including the sale of the real property for delinquent tax;

(ii) Credited to the General Fund of the District of Columbia; and

(iii) Subject to the same penalty and interest provisions as delinquent real property tax is subject as of the date of the real property tax bill.

(C) The lien under paragraph (1) of this subsection, with penalty and interest as provided under this section, shall be converted to real property tax as of the due date for payment of the real property tax bill if payment is not made.

(3) If the lien has been converted to a real property tax lien under § 47-1340 or if the accrued amount of the lien appears on the real property tax bill, the real property tax lien shall be enforced under Chapter 13A of Title 47.

(g) The Mayor may require the owner of vacant property in the District to fence or otherwise enclose the property to prevent the recurrence of a violation of any part of this chapter.

(h)(1) The Mayor shall require the payment of an interest charge to be assessed against the total fine, penalty, and charge for abatement services performed by the Mayor that have not been satisfied, in full, within 30 days of the date that final notice, which requests payment, is mailed to the property owner. The rate of interest authorized by this section shall not exceed 1 ½% per month or part of a month that accrues 30 days from the date of the final notice.

(2) If a private agency collects any outstanding fines, penalties, charges, and interest due the District government, the Mayor may require an additional payment to cover the cost of collecting the outstanding fine, penalty, charge, and interest.



(i) The Mayor may promulgate rules to carry out the intent and purposes of this section.

(Mar. 25, 1986, D.C. Law 6-100, § 8, 33 DCR 781; Sept. 20, 1989, D.C. Law 8-31, § 2(f), 36 DCR 4750; May 20, 1994, D.C. Law 10-117, § 8(a)(2), (a)(3), 41 DCR 524; Apr. 9, 1997, D.C. Law 11-199, § 202, 43 DCR 4569; May 11, 1996, D.C. Law 11-118, § 8, 43 DCR 1191; Apr. 9, 1997, D.C. Law 11-198, § 202, 43 DCR 4569; May 23, 2000, D.C. Law 13-115, § 8, 47 DCR 1996; Oct. 19, 2000, D.C. Law 13-172, § 909(b), 47 DCR 6308; Mar. 6, 2002, D.C. Law 14-78, § 2(b), 48 DCR 11262.)

**Cross references.** — Redemption of property, time period, see §§ 47-847 and 47-1304.

**Section references.** — This section is referenced in § 2-1215.15, § 8-804, § 8-805, § 8-806, § 8-807.01, § 8-808, § 8-810, § 47-847, § 47-1052, § 47-1304, § 47-1306, § 47-1307, and § 47-1312.

**Prior Codifications.** — 1981 Ed., § 6-2907.

**Effect of amendments.** — D.C. Law 13-115 rewrote subsec. (f), which previously read:

“(f)(1) The District shall have a continuing lien upon any land and the improvements on the land to which fines or penalties have been imposed pursuant to this chapter. Each lien placed pursuant to this chapter shall be filed at the Office of the Recorder of Deeds.

“(2) The lien shall have priority over all other liens except liens for District taxes and District water and sewer charges.

“(3) If any civil fine, penalty, or cost is unpaid 6 months after the date of the final notice of the charges, the subject property may be sold for the unpaid civil fine, penalty, cost, and interest due the District government at the next tax sale conducted pursuant to § 47-1301 in the same manner and under the same conditions as property sold for delinquent general taxes.

“(4) The proceeds of the sale shall be credited to the General Fund of the District of Columbia for use in accordance with § 6-3415.

“(5) For the purposes of any property sold pursuant to paragraph (3) of this subsection, the redemption period specified in §§ 47-1304, 47-1306, 47-1307, 47-1312, and 47-847, shall be 6 months.”

D.C. Law 13-172, rewrote subsec. (f), which had read:

“(f)(1) The District shall levy and collect a special assessment against any land and the improvements on the land to which any unpaid fines or penalties have been imposed pursuant to this act. A special assessment levied pursuant to this act shall be filed at the Office of Recorder of Deeds.

“(2) The special assessment may be collected at the same time and in the same manner as ordinary District real property taxes are collected pursuant to D.C. Code § 47-811(b). In addition, the special assessment shall be sub-

ject to the same penalties and interest as provided in D.C. Code § 47-811(c), and the same procedure and sale in case of delinquency as provided in Chapter 13 of Title 47 of the District of Columbia Code. The special assessment shall be subordinate to all existing special assessments previously imposed upon the same land and paramount to all liens except liens for District taxes and water and sewer charges. The special assessment shall continue until the special assessment and all interest due and payable has been paid.”

D.C. Law 14-78 rewrote subsec. (f); in subsec. (h)(1), substituted “may” for “shall”; and added subsec. (i). Prior to amendment, subsec. (f) read as follows: “(f)(1) The District shall levy a special assessment against any land and the improvements on the land to which any unpaid fines or penalties have been imposed pursuant to this chapter. Any special assessment levied pursuant to this chapter shall be filed with the Office of the Recorder of Deeds.” (2) The special assessment may be collected at the same time and in the same manner as ordinary District real property taxes are collected under § 47-811(b). In addition, the special assessment shall be subject to the same penalties and interest as provided in § 47-811(c) and the same procedure and sale in case of delinquency as provided in Chapter 13 of Title 47. The special assessment shall be subordinate to all existing special assessments previously imposed on the same land and paramount to all liens except liens for District taxes and District water and sewer charges. The special assessment shall continue until the special assessment and all interest due and payable thereon has been paid.”

**Temporary Amendment of Section.** —

For temporary (225 day) amendment of section, see § 7(a)(2) of Illegal Dumping Enforcement Temporary Act of 1993 (D.C. Law 10-62, November 20, 1993, law notification 40 DCR 8455).

For temporary (225 day) amendment of section, see § 202 of Fiscal Year 1997 Budget Support Temporary Amendment Act of 1996 (D.C. Law 11-226, April 9, 1997, law notification 44 DCR 2584).

For temporary (225 day) amendment of section, see § 9 of the Real Property Tax Clarity and Litter Control Administration Temporary Amendment Act of 2001 (D.C. Law 14-8, June 13, 2001, law notification 48 DCR 5916).

**Emergency legislation.** — For temporary amendments of section, see § 7(a)(2) and (a)(3) of the Illegal Dumping Enforcement Emergency Act of 1993 (D.C. Act 10-89, August 4, 1993, 40 DCR 6074) and § 7(a)(2) and (a)(3) of the Illegal Dumping Enforcement Congressional Recess Emergency Act of 1993 (D.C. Act 10-138, November 1, 1993, 40 DCR 7741).

For temporary amendment of section, see § 13 of the Solid Waste Facility Permit Emergency Act of 1995 (D.C. Act 11-144, October

**Legislative history of Law 6-100.** — For legislative history of D.C. Law 6-100, see Historical and Statutory Notes following § 8-801.

**Legislative history of Law 8-31.** — For legislative history of D.C. Law 8-31, see Historical and Statutory Notes following § 8-803.

**Legislative history of Law 10-117.** — For legislative history of D.C. Law 10-117, see Historical and Statutory Notes following § 8-805.

**Legislative history of Law 11-118.** — Law 11-118, the “Clean Hands Before Receiving a License or Permit Act of 1996,” was introduced in Council and Assigned Bill No. 11-260, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on January 4, 1996, and February 26, 1996, respectively. Signed by the mayor on February 26, 1996, it was assigned Act No. 11-222 and transmitted to both Houses of Congress for its review. D.C. Law 11-118 became effective on May 11, 1996.

**Legislative history of Law 11-198.** — Law 11-198, the “Fiscal Year 1997 Budget Support Act of 1996,” was introduced in Council and assigned Bill No. 11-741, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective on April 9, 1997.

**Legislative history of Law 13-115.** — Law 13-115, the “Litter Control Administration Amendment Act of 2000,” was introduced in Council and assigned Bill No. 13-304, which was referred to the Committee on the Judiciary.

The Bill was adopted on first and second readings on January 4, 2000, and February 1, 2000, respectively. Signed by the Mayor on February 18, 2000, it was assigned Act No. 13-268 and transmitted to both Houses of Congress for its review. D.C. Law 13-115 became effective on May 23, 2000.

**Legislative history of Law 13-172.** — For Law 13-172, see notes following § 8-802.

**Legislative history of Law 14-78.** — Law 14-78, the “Litter Control Administration Amendment Act of 2001,” was introduced in Council and assigned Bill No. 14-226, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on October 2, 2001, and November 6, 2001, respectively. Signed by the Mayor on November 29, 2001, it was assigned Act No. 14-198 and transmitted to both Houses of Congress for its review. D.C. Law 14-78 became effective on March 6, 2002.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 6-100, the “Litter Control Administration Act of 1985,” see Mayor’s Order 2000-184, December 5, 2000 (47 DCR 10222).

Delegation of Authority Under the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 and the Litter Control Administration Act of 1985, see Mayor’s Order 2008-157, November 20, 2008 (55 DCR 12539).

**Resolutions.** — Resolution 14-191, the “Rights-of-Way Fines Emergency Resolution of 2001,” was approved effective July 10, 2001.

**Editor’s notes.** — Approval of schedule of fines for violation of rules listed in § 8-802: Pursuant to Resolution 7-63, the “Litter Control Administration Act Schedule of Fines Approval Resolution of 1987,” effective May 19, 1987, the Council approved the proposed schedule of fines for violations of rules referenced in § 3 of the Litter Control Act which was transmitted to Council by the Mayor on April 14, 1987.

Application of provisions of Law 11-198: Section 1001 of D.C. Law 11-198 provided that titles I, II, III, V, and VI and §§ 405 and 406 of the act shall apply after September 30, 1996.

Revised schedule of fines approved: Proposed Resolution 12-0015, the “Litter Control Revised Schedule of Fines Approval Resolution of 1997,” was deemed approved, effective May 8, 1997.

## CASE NOTES

### ANALYSIS

Due process.  
Substantive violation.

### Due process.

Civil fines may lawfully, consistent with due process, penalize regulatory infractions on basis of strict liability, particularly if fines are



modest. U.S. Const. Amend. 14. *Bruno v. District of Columbia Bd. of Appeals & Review*, 665 A.2d 202, 1995 D.C. App. LEXIS 186 (1995).

#### **Substantive violation.**

Property owner could not be required to pay a fine for a late response to citation for alleged violation of Litter Control Act, where underlying substantive violation was not established; although statutory provisions could be read to

allow imposition of a late-response fine without an underlying violation, an evident association between the lateness penalty and a substantive violation existed in all provisions dealing directly with the issue, and the notion of a fine for an untimely pleading, without any showing of prejudice, was at least unfamiliar and perhaps unique. *Washington v. D.C. Dep't of Pub. Works*, 954 A.2d 945, 2008 D.C. App. LEXIS 329 (2008).

### **§ 8-807.01. Solid Waste Nuisance Abatement Fund.**

(a) A Solid Waste Nuisance Abatement Fund ("Fund") is hereby established, separate from the General Fund of the District of Columbia, into which all fines, penalties, interest, charges and costs assessed pursuant to this chapter shall be deposited. The deposit of these monies shall be subject to § 8-807(f)(2).

(b) The Fund shall be continuing. Revenues deposited in the Fund shall not revert to the General Fund at the end of any fiscal year or at any other time, but shall be continually available to the Department of Public works for the uses and purposes set forth in this chapter, subject to authorization by Congress.

(c) Monies deposited into the Fund shall be used to offset some of the costs of implementing this chapter and some of the costs of the abatement of solid waste nuisances. Excess monies may be used to fund recycling activities in accordance with § 8-1015.

(d) The Mayor shall submit to the Council an annual statement of the Fund's receipts and disbursements for the preceding fiscal year.

(Mar. 25, 1986, D.C. Law 6-100, § 8a, as added Mar. 6, 2002, D.C. Law 14-78, § 2(c), 48 DCR 11262; Mar. 13, 2004, D.C. Law 15-105, § 52, 51 DCR 881; Mar. 2, 2007, D.C. Law 16-191, § 105, 53 DCR 6794.)

**Effect of amendments.** — D.C. Law 15-105, in subsec. (a), validated a previously made technical correction.

D.C. Law 16-191, in the section heading and subsec. (a), substituted "Solid Waste Nuisance Abatement" for "Clean City".

**Legislative history of Law 14-78.** — Law 14-78, the "Litter Control Administration Amendment Act of 2001", was introduced in Council and assigned Bill No. 14-226, which was referred to the Committee on Public Works

and the Environment. The Bill was adopted on first and second readings on October 2, 2001, and November 6, 2001, respectively. Signed by the Mayor on November 29, 2001, it was assigned Act No. 14-198 and transmitted to both Houses of Congress for its review. D.C. Law 14-78 became effective on March 6, 2002.

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 8-631.02.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 8-115.05.

### **§ 8-808. Hearing examiners.**

(a) The Mayor shall appoint a chief hearing examiner and other hearing examiners needed to implement this chapter, and the administration of the hearing provided for in this section and in § 8-805 shall be regulated by the chief hearing examiner.

(b) The powers of hearing examiners shall include, but not be limited to, the following:

(1) To preside over hearings in contested matters arising out of the



statutes and the rules referred to in § 8-802 and to do so in accordance with Chapter 5 of Title 2;

(2) To require the respondent to abate the violations;

(3) To charge civil fines, penalties, and abatement costs established in §§ 8-805(e) and 8-807;

(4) To agree to alternative sanctions, under § 8-807(e) and according to rules to be established under § 8-810, so that the agreed to sanctions allow the respondent to perform voluntarily a specific number of hours of community service;

(5) To suspend or modify fines, penalties, and abatement costs;

(6) To set aside and reopen a final disposition upon application and for good cause shown; and

(7) To require the attendance of witnesses by subpoena, administer oaths, take the testimony of witnesses under oath, and dismiss, rehear, and continue cases.

(c)(1) If a person refuses to obey a hearing examiner's demand that the person testify or comply with a subpoena, the hearing examiner may request the Superior Court of the District of Columbia to compel the person to testify or to obey the subpoena.

(2) If the court consents to the hearing examiner's request and compels the person to testify or to obey the subpoena, but if the person disobeys the court, then the person shall be in contempt of court, and the court may use its equity powers to compel the obedience of the person.

(Mar. 25, 1986, D.C. Law 6-100, § 9, 33 DCR 781.)

**Section references.** — This section is referenced in § 8-802 and § 8-805.

**Prior Codifications.** — 1981 Ed., § 6-2908.

**Legislative history of Law 6-100.** — For legislative history of D.C. Law 6-100, see Historical and Statutory Notes following § 8-801.

## § 8-809. Appeals.

(a) The hearing examiner's decision may be appealed within 15 days of the issuance of the decision to the Board of Appeals and Review.

(b) The parties may appeal a decision of the Board of Appeals and Review within 15 days of the issuance of the decision to the District of Columbia Court of Appeals.

(Mar. 25, 1986, D.C. Law 6-100, § 10, 33 DCR 781.)

**Prior Codifications.** — 1981 Ed., § 6-2909.

**Legislative history of Law 6-100.** — For

legislative history of D.C. Law 6-100, see Historical and Statutory Notes following § 8-801.

## § 8-810. Mayor to issue rules.

The Mayor shall issue rules to implement this chapter under the provisions of subchapter I of Chapter 5 of Title 2, and the rules shall, at the least, establish a program of community service which may be used, according to an agreement under §§ 8-805(c)(3) and 8-807(e), as an alternative sanction under § 8-807(e).

(Mar. 25, 1986, D.C. Law 6-100, § 11, 33 DCR 781.)

**Section references.** — This section is referenced in § 8-805, § 8-807, and § 8-808.

**Prior Codifications.** — 1981 Ed., § 6-2910.

**Legislative history of Law 6-100.** — For legislative history of D.C. Law 6-100, see Historical and Statutory Notes following § 8-801.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 6-100, the “Litter Control Administration Act of 1985”, see Mayor’s Order 2000-184, December 5, 2000 (47 DCR 10222).

## § 8-811. Identification of offenders.

(a) A person who is stopped by a police officer or other officials authorized by the Mayor to enforce the regulations listed in § 8-802(a)(1) after the person has committed a violation of these regulations shall be required to inform the officer or other authorized official of his or her true name and address for the sole purpose of including that information on a notice of violation; provided, that no person shall be required to possess or display any documentary proof of his or her name or address in order to comply with the requirements of this section.

(b) A person who refuses to provide his or her true name and address to a police officer or other officials authorized by the Mayor to enforce the regulations listed in § 8-802(a)(1) upon request after having been stopped for committing a violation of these regulations shall, upon conviction, be fined not less than \$100 nor more than \$250.

(Mar. 25, 1986, D.C. Law 6-100, § 12, as added Mar. 20, 2009, D.C. Law 17-314, § 2(b), 56 DCR 200; redesignated as § 11a, Sept. 26, 2012, D.C. Law 19-171, § 59(a), 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 redesignated D.C. Law 6-100, § 12 as D.C. Law 6-100, § 11a.

**Legislative history of Law 17-314.** — For Law 17-314, see notes following § 8-802.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned

Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

## § 8-812. Annual reporting requirement.

(a) The Mayor shall submit to the Council statistics on the number of notices of infractions and violations issued for violation of regulations listed in § 8-802(a)(1), and the number of notices subsequently dismissed.

(b) The statistics shall identify, by Metropolitan Police Department district, the number of notices issued and dismissed.

(c) Statistics shall be provided on a calendar-year basis and shall be transmitted to the Council by January 31st, with the first report due January 31, 2010.

(Mar. 25, 1986, D.C. Law 6-100, § 13, as added Mar. 20, 2009, D.C. Law 17-314, § 2(b), 56 DCR 200; redesignated as § 11b, Sept. 26, 2012, D.C. Law 19-171, § 59(b), 59 DCR 6190.)

**Cross references.** — Licensure, clean hands requirement, prohibition against issuance of licenses, see § 47-2862.

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 redesignated D.C. Law 6-100, § 13 as D.C. Law 6-100, § 11b

**Legislative history of Law 17-314.** — For Law 17-314, see notes following § 8-802.

**Legislative history of Law 19-171.** — See note to § 8-811.



CHAPTER 9. ILLEGAL DUMPING ENFORCEMENT.

Sec.

8-901. Definitions.

8-902. Prohibition and penalties.

8-903. Enforcement.

Sec.

8-904. Bounty.

8-905. Forfeitures.

8-906. Rules.

§ 8-901. Definitions.

For the purposes of this chapter, the term:

(1) "Commercial purpose" means for the purpose of a person's economic gain.

(1A) "Dispose" means to discharge, deposit, dump, or place any solid waste in the District of Columbia.

(2) "District" means the District of Columbia.

(2A) "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, as established by the Mayor, may:

(A) Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating, reversible, illness; or

(B) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Such wastes include, but are not limited to, those which are toxic, carcinogenic, flammable, irritants, strong sensitizers, or which generate pressure through decomposition, heat, or other means, as well as containers and receptacles previously used in the transportation, storage, use or application of the substances described as a hazardous waste.

(3) "Mayor" means the Mayor of the District of Columbia.

(3A) "Medical waste" means solid waste from medical research, medical procedures, or pathological, industrial, or medical laboratories. Medical waste includes, but is not limited to, the following types of solid waste:

(A) Cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures;

(B) Pathological waste, including tissues, organs, and body parts that are removed during surgery or autopsy;

(C) Human blood waste and products of blood, including serum, plasma, and other blood components;

(D) Sharps that have been used in patient care or medical research, or industrial laboratories, including hypodermic needles, syringes, pasteur pipettes, broken glass, and scalpel blades;

(E) Contaminated animal carcasses, body parts, and bedding of animals that were exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals;

(F) Waste from surgery or autopsy that was in contact with infectious

agents, including soiled dressings, sponges, drapes, lavage tubes, drainage sets, underpads, and surgical gloves;

(G) Laboratory waste from medical, pathological, pharmaceutical, or other research, commercial, or industrial laboratories that was in contact with infectious agents, including slides, and cover slips, disposable gloves, laboratory coats, and aprons;

(H) Dialysis waste that was in contact with the blood of patients undergoing hemodialysis, including contaminated disposable equipment and supplies such as tubing, filters, disposable sheets, towels, gloves, aprons, and laboratory coats;

(I) Discarded medical equipment and parts that were in contact with infectious agents;

(J) Biological waste and discarded materials contaminated with blood, excretion, exudates and secretion from human beings or animals who are isolated to protect others from communicable diseases; and

(K) Such other waste material that results from the administration of medical care to a patient by a health care provider and is found by the Mayor to pose a threat to human health or the environment.

(4) "Motor vehicle" means any conveyance propelled by an internal combustion engine, electricity, or steam.

(5) "Person" means any individual, partnership, corporation (including a government corporation), trust, association, firm, joint stock company, organization, commission, the District or federal government, or any other entity.

(6) "Solid waste" means combustible or incombustible refuse. Solid waste includes dirt, sand, sawdust, gravel, clay, loam, stone, rocks, rubble, building rubbish, shavings, trade or household waste, refuse, ashes, manure, vegetable matter, paper, dead animals, garbage or debris of any kind, any other organic or inorganic material or thing, or any other offensive matter.

(May 20, 1994, D.C. Law 10-117, § 2, 41 DCR 524; May 9, 1995, D.C. Law 11-12, § 3(a), 42 DCR 1265; Apr. 18, 1996, D.C. Law 11-110, § 15(a), 43 DCR 530; Apr. 29, 1998, D.C. Law 12-90, § 2(a), 45 DCR 1308.)

**Section references.** — This section is referenced in § 8-105.02, § 47-2829, and § 47-2862.

**Prior Codifications.** — 1981 Ed., § 6-2911.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 3(a) of Recycling Fee and Illegal Dumping Temporary Amendment Act of 1994 (D.C. Law 10-191, October 1, 1994, law notification 41 DCR 6934).

**Temporary Addition of Section.** — For temporary (225 day) additions, see §§ 2 to 5 of Illegal Dumping Enforcement Temporary Act of 1993 (D.C. Law 10-62, November 20, 1993, law notification 40 DCR 8455).

**Emergency legislation.** — For temporary addition of chapter 29A, see §§ 2-6 of the Illegal Dumping Enforcement Emergency Act of 1993 (D.C. Act 10-89, August 4, 1993, 40 DCR 6074) and §§ 2-6 of the Illegal Dumping En-

forcement Congressional Recess Emergency Act of 1993 (D.C. Act 10-138, November 1, 1993, 40 DCR 7741).

For temporary amendment of section, see § 3 (a) of the Recycling Fee and Illegal Dumping Emergency Amendment Act of 1994 (D.C. Act 10-269, July 7, 1994, 41 DCR 4669).

**Legislative history of Law 10-117.** — Law 10-117, the "Illegal Dumping Enforcement Act of 1994," was introduced in Council and assigned Bill No. 10-249, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on December 7, 1993, and January 4, 1994, respectively. Signed by the Mayor on January 25, 1994, it was assigned Act No. 10-181 and transmitted to both Houses of Congress for its review. D.C. Law 10-117 became effective on May 20, 1994.

**Legislative history of Law 11-12.** — Law



11-12, the "Recycling Fee and Illegal Dumping Amendment Act of 1995," was introduced in Council and assigned Bill No. 11-15, which was retained by Council. The Bill was adopted on first and second readings on January 17, 1995, and February 7, 1995, respectively. Signed by the Mayor on March 6, 1995, it was assigned Act No. 11-23 and transmitted to both Houses of Congress for its review. D.C. Law 11-12 became effective on May 9, 1995.

**Legislative history of Law 11-110.** — Law 11-110, the "Technical Amendments of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 4, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

**Legislative history of Law 12-90.** — Law 12-90, the "Illegal Dumping Enforcement Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-167, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 4, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 26, 1998, it was assigned Act No. 12-263 and transmitted to both Houses of Congress for its review. D.C. Law 12-90 became effective on April 29, 1998.

**Editor's notes.** — Mayor authorized to issue regulations: Section 6 of D.C. Law 10-62 provided that the Mayor is authorized to promulgate regulations necessary to implement and enforce this act in accordance with subchapter I of Chapter 15 of Title 1.

## § 8-902. Prohibition and penalties.

(a) It shall be unlawful for any person to dispose or cause or permit the disposal of solid waste, hazardous waste, or medical waste in or upon any street, lot, park, public place, or any other public or private area, whether or not for a commercial purpose, unless the site is authorized for the disposal of solid waste, hazardous waste or medical waste by the Mayor.

(b)(1) Any person who violates subsection (a) of this section shall be liable to arrest.

(2) Any person who disposes of solid waste which is neither hazardous nor medical waste in violation of subsection (a) of this section, shall be guilty of a misdemeanor, and shall be subject to a fine not to exceed \$5,000 for the first offense and \$10,000 for each subsequent offense, or shall be imprisoned for a period not to exceed 90 days, or both. Any person who disposes of solid waste for a commercial purpose shall be guilty of a felony, and shall be subject to a fine for each offense not to exceed \$40,000, or shall be imprisoned for a period not to exceed 5 years, or both.

(3) Any person who knowingly disposes of hazardous waste in violation of subsection (a) of this section shall be guilty of a felony, and subject to a fine for each offense not to exceed \$40,000, and a term of imprisonment not to exceed 5 years.

(4) Any person who knowingly disposes of medical waste in violation of subsection (a) of this section shall be guilty of a felony, and subject to a fine for each offense not to exceed \$40,000, and a term of imprisonment not to exceed 5 years.

(c) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of this chapter, or any rules or regulations issued under the authority of this chapter, provided that a civil fine up to \$10,000 may be assessed for each offense. Any person who knowingly disposes of hazardous waste in violation of this chapter shall be liable for a civil penalty in an amount not to exceed \$40,000 for each violation. Adjudication of any civil infraction of this chapter shall be enforced by the Mayor pursuant to § 8-802.



(d) In addition to any other penalties provided in this section, a person's ownership interest in a motor vehicle used in violating this chapter shall be subject to seizure and forfeiture. All seizures and forfeitures of motor vehicles under this chapter shall be in accordance with § 8-905.

(e) The Mayor is authorized to establish and collect a reasonable fee for the cost of towing and storing seized motor vehicles. A storage fee shall not be charged for the first 24-hour period following the seizure of a motor vehicle. If a person is found not liable for a violation of this chapter, the Mayor shall waive any towing and storage fees assessed under this chapter and refund any penalties paid.

(f) Any person violating subsection (a) of this section, shall also be liable and responsible for paying 3 times the cost and expense incurred by the Mayor for cleaning and clearing the site where the unlawful disposal occurred and for properly disposing of the solid waste. Payment by the violator shall be made within 10 days of demand by the Mayor.

(g) The Mayor may deny, revoke, or not renew, for a period of not less than 30 days, the business license, permit, or motor vehicle registration issued, or to be issued, to any person who has committed a violation of this chapter, provided that the business license, permit, or motor vehicle registration is substantially related to the commission of the offense of unlawful disposal of solid waste in the District. The business license, permit, or motor vehicle registration may not be issued or reissued for a period of not less than 30 days and until all fines, penalties, and fees assessed under this section have been fully satisfied.

(h) The Mayor may impose any sanction provided in Chapter 8 of this title, to the extent that it is not inconsistent with this chapter.

(May 20, 1994, D.C. Law 10-117, § 3, 41 DCR 524; May 9, 1995, D.C. Law 11-12, § 3(b), 42 DCR 1265; Feb. 27, 1996, D.C. Law 11-94, § 13, 42 DCR 7172; Apr. 18, 1996, D.C. Law 11-110, § 15(b), 43 DCR 530; Apr. 29, 1998, D.C. Law 12-90, § 2(b), 45 DCR 1308; May 12, 2006, D.C. Law 16-96, § 2, 53 DCR 1661; Mar. 25, 2009, D.C. Law 17-353, § 110, 56 DCR 1117.)

**Section references.** — This section is referenced in § 2-1831.03, § 8-904, and § 23-581.

**Prior Codifications.** — 1981 Ed., § 6-2912.

**Effect of amendments.** — D.C. Law 16-96, in subsec. (b), substituted "\$5,000 for the first offense and \$10,000 for each subsequent offense," for "\$1,000 for each offense,"; in subsec. (b), substituted "not to exceed \$40,000," for "not to exceed \$25,000,"; in subsec. (c), substituted "a civil fine up to \$10,000" for "a civil fine up to \$5,000"; in subsec. (c), substituted "not to exceed \$40,000," for "not to exceed \$25,000,"; in subsec. (g), substituted "or not renew, for a period of not less than 30 days," for "or not renew"; and in subsec. (g), substituted "or reissued for a period not less than 30 days and" for "or reissued".

D.C. Law 17-353, in subsec. (g), substituted "for a period of not less than" for "for a period not less than".

**Temporary Amendment of Section.** —

For temporary (225 day) amendment of section, see § 3(b) of Recycling Fee and Illegal Dumping Temporary Amendment Act of 1994 (D.C. Law 10-191, October 1, 1994, law notification 41 DCR 6934).

For temporary (225 day) amendment of section, see § 13 of Solid Waste Facility Permit Temporary Act of 1994 (D.C. Law 10-251, March 23, 1995, law notification 42 DCR 1650).

For temporary (225 day) amendment of section, see § 13 of Solid Waste Facility Permit Temporary Act of 1995 (D.C. Law 11-80, February 6, 1996, law notification 43 DCR 776).

**Temporary Addition of Section.** — See Historical and Statutory Notes following § 8-901.

**Emergency legislation.** — For temporary amendment of section, see § 3(b) of the Recycling Fee and Illegal Dumping Emergency

Amendment Act of 1994 (D.C. Act 10-269, July 7, 1994, 41 DCR 4669).

For temporary amendment of section, see § 13 of the Solid Waste Facility Permit Emergency Act of 1994 (D.C. Act 10-384, December 28, 1994, 42 DCR 45).

**Legislative history of Law 10-117.** — For legislative history of D.C. Law 10-117, see Historical and Statutory Notes following § 8-901.

**Legislative history of Law 11-12.** — For legislative history of D.C. Law 11-12, see Historical and Statutory Notes following § 8-901.

**Legislative history of Law 11-94.** — Law 11-94, the “Solid Waste Facility Permit Act of 1995,” was introduced in Council and assigned Bill No. 11-036, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on November 7, 1995, and December 5, 1995, respectively. Signed by the Mayor on December 18, 1995, it was assigned Act No. 11-177 and transmitted to both Houses of Congress for its review. D.C. Law 11-94 became effective on February 27, 1996.

**Legislative history of Law 11-110.** — For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 8-901.

**Legislative history of Law 12-90.** — For legislative history of D.C. Law 12-90, see Historical and Statutory Notes following § 8-901.

**Legislative history of Law 16-96.** — Law 16-96, the “Illegal Dumping Enforcement Amendment Act of 2005”, was introduced in Council and assigned Bill No. 16-232 which was referred to the Committee on Public Works and Environment. The Bill was adopted on first and second readings on January 4, 2006, and February 7, 2006, respectively. Signed by the Mayor on February 27, 2006, it was assigned Act No. 16-291 and transmitted to both Houses of Congress for its review. D.C. Law 16-96 became effective on May 12, 2006.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 8-635.01.

**Delegation of Authority.** — Delegation of authority pursuant to the Illegal Dumping Enforcement Act of 1994, see Mayor’s Order 96-160, October 31, 1996 (43 DCR 6370).

## § 8-903. Enforcement.

The Mayor may establish a special law enforcement unit with police powers to enforce this chapter, Chapter 8 of this title, Chapter 13 of this title, subchapter II of Chapter 1 of this title, and the Water and Sanitation Codes, as compiled in 21 DCMR 700, et seq.

(May 20, 1994, D.C. Law 10-117, § 4, 41 DCR 524.)

**Prior Codifications.** — 1981 Ed., § 6-2913.

**Temporary Amendment of Section.** — See Historical and Statutory Notes following § 8-901.

**Temporary Addition of Section.** — See Historical and Statutory Notes following § 8-901.

**Legislative history of Law 10-62.** — For legislative history of D.C. Law 10-62, see Historical and Statutory Notes following § 8-901.

**Legislative history of Law 10-117.** — For legislative history of D.C. Law 10-117, see Historical and Statutory Notes following § 8-901.

## CASE NOTES

### In general.

Court of Appeals had jurisdiction to entertain interlocutory appeals of order modifying and extending temporary restraining order and granting partial summary judgment for solid waste and recycling hauler as to solid waste facility charge, in hauler’s action against Dis-

trict of Columbia, seeking declaratory, injunctive, and other relief concerning application and enforcement of Solid Waste Facility Permit Act and Illegal Dumping Enforcement Act. District of Columbia v. Eastern Trans-Waste of Md., Inc., 758 A.2d 1, 2000 D.C. App. LEXIS 192 (2000).

## § 8-904. Bounty.

The Mayor is authorized to offer and pay rewards for information that, in the opinion of the Mayor, leads to the apprehension and charging of any person for violating § 8-902(a) and the collection of a penalty or fine from the person.

(May 20, 1994, D.C. Law 10-117, § 5, 41 DCR 524.)



**Prior Codifications.** — 1981 Ed., § 6-2914. legislative history of D.C. Law 10-117, see Historical and Statutory Notes following § 8-901.  
**Legislative history of Law 10-117.** — For

## § 8-905. Forfeitures.

(a) All motor vehicles which are used, or intended to be used, to transport, or in any manner to facilitate a violation of this chapter shall be subject to forfeiture, except that:

(1) No motor vehicle used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(2) No motor vehicle is subject to forfeiture under this section by reason of any act or omission that the owner establishes was committed or omitted by a third party without the owner's knowledge and consent; and

(3) A forfeiture of a motor vehicle encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of, nor consented to, the act or omission.

(b) A motor vehicle subject to forfeiture under this section may be seized by law enforcement officials upon process issued by the Superior Court of the District of Columbia having jurisdiction over the motor vehicle, or without process if authorized by law.

(c)(1) A motor vehicle taken or detained under this section shall not be subject to replevin, but shall be deemed to be in the custody of the Mayor. When a motor vehicle is seized under this chapter, the Mayor shall:

(A) Place the motor vehicle under seal;

(B) Remove the motor vehicle to a place designated by the Mayor; or

(C) Remove the motor vehicle to an appropriate location for disposition in accordance with law.

(2)(A) After a proper showing of probable cause for the seizure of the motor vehicle is made, the Mayor shall cause notice of the seizure and the Mayor's intention to forfeit and sell or otherwise dispose of the motor vehicle in accordance with this section to be published for at least 2 successive weeks in a local newspaper of general circulation. In addition, the Mayor shall provide written notice of the seizure together with information on the applicable procedures for claiming the motor vehicle to each party who is known, or in the exercise of reasonable diligence should be known, by the Mayor to have a right of claim to the seized motor vehicle. Notice to each party shall be by registered or certified mail, return receipt requested.

(B) Any person claiming an interest in the motor vehicle may, at any time within 30 days from the date of receipt or publication of notice, whichever is later, of seizure, file with the Mayor a claim stating his or her interest in the motor vehicle. Upon the filing of a claim, the claimant shall give a bond to the District in the sum of \$2,500 or 10% of the fair market value of the claimed motor vehicle (as appraised by the Chief of the Metropolitan Police Department), whichever is lower, but not less than \$250, with sureties to be approved by the Mayor. In case of forfeiture of the claimed motor vehicle, the costs and expenses of the forfeiture proceedings shall be deducted from the bond. Any



costs that exceed the bond amount and the proceeds from the sale of the conveyance shall be paid by the claimant. In determining the fair market value of the motor vehicle seized, the Chief of the Metropolitan Police Department shall consider any verifiable and reasonable evidence of value that the claimant may present. The balance of the proceeds shall be transferred to the Department of Public Works and used to offset the cost of implementing this chapter and Chapter 8 of this title, and to abate solid waste nuisances. Subject to the enactment of appropriations, excess monies shall be used to fund recycling activities in accordance with § 8-1015.

(C) If a claim and bond (or application for a waiver of bond) are not filed within 30 days of receipt or publication of notice, whichever is later, and the Mayor determines that the motor vehicle is forfeitable under this section, the Mayor shall declare the motor vehicle forfeited and shall dispose of the motor vehicle in accordance with the provisions of paragraph (3) of this subsection. If the Mayor determines that the seized motor vehicle is not forfeitable under this section, and is not otherwise subject to forfeiture, the Mayor shall return the motor vehicle to its rightful owner.

(D) If the seized motor vehicle is not forfeited or disposed of in accordance with subparagraph (C) of this paragraph, the Mayor shall request the Corporation Counsel to apply to the Superior Court of the District of Columbia for forfeiture of the motor vehicle.

(E) Whenever any person who has an interest in forfeited conveyance files with the Mayor, either before or after the sale or disposition of motor vehicle, a petition for remission or mitigation of the forfeiture, the Mayor shall remit or mitigate the forfeiture upon the terms and conditions as the Mayor deems reasonable if the Mayor finds that:

(i) The forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law; or

(ii) Mitigating circumstances justify the remission or mitigation of the forfeiture.

(F) In all suits or actions brought for forfeiture of any motor vehicle seized under this section when the motor vehicle is claimed by any person, the burden of proof shall be on the claimant once the Mayor has established probable cause as provided in subsection (a) of this section.

(3) When a motor vehicle is forfeited under this section, the Mayor shall:

(A) Retain the motor vehicle for official use; or

(B) Sell the motor vehicle if it is not required by law to be destroyed and is not harmful to the public. All proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs shall be deducted from the proceeds.

(4) Any property contained in the motor vehicle at the time of seizure may be held for evidentiary purposes until such time as the forfeiture proceeding is concluded, or the Corporation Counsel determines that the property is no longer needed for evidentiary purposes, whichever is sooner. Any property that is not needed for evidentiary purposes may be returned to the person who has a right of claim to the property. The Mayor may dispose of any solid waste contained in the motor vehicle at the time of seizure and collect up to 3 times

the cost and expense incurred for the proper disposal. If it appears to the Mayor that any property seized under this section is liable to perish, waste, or be greatly reduced in value by the keeping, or that the expense of keeping is disproportionate to the value of the property, the Mayor may proceed to advertise and sell the property at auction or otherwise dispose of the property.

(d) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (c) of this section shall be instituted promptly.

(May 20, 1994, D.C. Law 10-117, § 6, 41 DCR 524.)

**Section references.** — This section is referenced in § 8-902.

**Prior Codifications.** — 1981 Ed., § 6-2915.

**Temporary Addition of Section.** — See Historical and Statutory Notes following § 8-901.

**Legislative history of Law 10-62.** — For legislative history of D.C. Law 10-62, see Historical and Statutory Notes following § 8-901.

**Legislative history of Law 10-117.** — For legislative history of D.C. Law 10-117, see Historical and Statutory Notes following § 8-901.

## § 8-906. Rules.

The Mayor is authorized to promulgate regulations necessary to implement and enforce this chapter in accordance with subchapter I of Chapter 5 of Title 2.

(May 20, 1994, D.C. Law 10-117, § 7, 41 DCR 524.)

**Cross references.** — Condominium and cooperative trash collection tax credit, computation of tax, annual adjustment, limitations, see § 47-872.

Condominium and cooperative trash collec-

tion tax credit, cooperative housing associations, see § 47-873.

Solid waste facilities, required environmental impact statements, see § 8-109.11.

## CHAPTER 10. SOLID WASTE MANAGEMENT AND MULTI-MATERIAL RECYCLING.

### *Subchapter I. General Provisions*

- Sec.
- 8-1001. Council findings.
  - 8-1002. Purposes.
  - 8-1003. Definitions.
  - 8-1004. Solid waste management policy for the District.
  - 8-1005. Priority for recycling.
  - 8-1006. Recyclable materials recovery targets.
  - 8-1007. Mandatory source separation program.
  - 8-1008. Establishment of Office of Recycling.
  - 8-1009. Right to recycle individual solid waste not limited.
  - 8-1010. Multi-material recycling buy-back centers and intermediate processing facilities.
  - 8-1011. Contracting authority.
  - 8-1012. Compost materials use requirements.
  - 8-1013. District procurement policies.
  - 8-1014. Annual reporting requirements; submission of plan.
  - 8-1015. Recycling surcharge and collection fee.
  - 8-1015.01. Tire recycling fee.
  - 8-1016. Information clearinghouse.
  - 8-1017. Enforcement.
  - 8-1017.01. Applicability.
  - 8-1018. Rules.
  - 8-1019. Minimum recycled content percentage requirements.

### Sec.

- 8-1020. Minimum recycled content reporting requirements.
- 8-1021. Application for exemption and hearing procedure.
- 8-1022. Minimum recycled content surcharge.
- 8-1022.01. Establishment of a Recycled Newspaper Fiber Content Advisory Task Force.
- 8-1023. Minimum recycled content rules.

### *Subchapter II. Solid Waste Facility Permits*

- 8-1051. Definitions.
- 8-1052. Open solid waste facilities prohibited.
- 8-1053. Permits required.
- 8-1054. Application for permits.
- 8-1055. Reporting and operating requirements.
- 8-1056. Inspections.
- 8-1057. Solid waste facility charge.
- 8-1058. Rulemaking.
- 8-1059. Hearings.
- 8-1060. Remedies and penalties.
- 8-1061. Solid Waste Transfer Facility Site Selection Advisory Panel established.
- 8-1062. Composition; appointment; vacancies; terms of office; compensation.
- 8-1063. Moratorium.

### *Subchapter I. General Provisions.*

## § 8-1001. Council findings.

The Council of the District of Columbia ("Council") finds that:

(1) The District of Columbia ("District") disposes of its solid waste by incineration at the Benning Road Solid Waste Reduction Center #1 ("SWRC #1") or burying it at the Lorton Landfill, located on Interstate 95.

(2) Approximately 2,000 tons of solid waste from the District is buried in the Lorton Landfill each day and approximately 700 tons are burned at SWRC #1 each day.

(3) The increasing volume and variety of solid waste generated in the District create conditions that threaten the public health, safety, and well-being by contributing to land pollution, a waste of resources, the production of flies, rodents, litter, and the general deterioration of the environment.

(4) The traditional methods of solid waste management for the District, which are directed largely at land disposal and incineration, may not meet the future demands of the growing amount of municipal solid waste and the increase in non-biodegradable materials contained in solid waste.

(5) Methods of solid waste management that emphasize source reduction and recycling are essential to the long-range preservation of the health, safety,



and well-being of the public, the economic productivity and environmental quality of the District, and the conservation of resources.

(6) Removing certain materials from the District solid waste stream will decrease the flow of solid waste to the Lorton Landfill, aid in the conservation of valuable resources, and reduce substantially the required capacity of proposed solid waste disposal facilities.

(7) There is no office, division, or personnel, within the District government, devoted specifically to the issues attendant to recycling.

(8) The Council can most appropriately demonstrate its long-term commitment to environmental protection and effective solid waste management by establishing a proper solid waste separation and recycling program and increasing the purchase of recycled products by agencies and instrumentalities of the District government.

(9) Many other jurisdictions, including Fairfax County, Virginia; Montgomery County, Maryland; and many states, including New Jersey, California, and Washington, include recycling as part of their solid waste stream management.

(10) Private group recycling efforts within the District should be encouraged and coordinated with the efforts of the District government.

(11) Efforts should be made by the District government to explore the feasibility of establishing joint recycling programs with neighboring jurisdictions.

(Mar. 16, 1989, D.C. Law 7-226, § 2, 36 DCR 595.)

**Section references.** — This section is referenced in § 47-872.

**Prior Codifications.** — 1981 Ed., § 6-3401.

**Temporary Addition of Section.** — For temporary (225 day) additions, see §§ 2 to 11 of Solid Waste Facility Permit Temporary Act of 1994 (D.C. Law 10-251, March 23, 1995, law notification 42 DCR 1650).

**Emergency legislation.** — For temporary addition of chapter, see §§ 2-11 of the Solid Waste Facility Permit Emergency Act of 1994 (D.C. Act 10-384, December 28, 1994, 42 DCR 45).

**Legislative history of Law 7-226.** — Law 7-226, the “District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988,” was introduced in Council and assigned Bill No. 7-378, which was referred to the Committee on Public Works. The Bill was ad-

opted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 10, 1989, it was assigned Act. No. 7-301 and transmitted to both Houses of Congress for its review.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 10-251, the “Solid Waste Facility Permit Temporary Act of 1994”, see Mayor’s Order 95-754, May 19, 1995.

Delegation of Authority under the District of Columbia Solid Waste Disposal Act of 1989 21 DCMR 700.1 et seq., see Mayor’s Order 2005-123, August 29, 2005 (52 DCR 8666).

**Resolutions.** — Resolution 16-395, the “Solid Waste Disposal Fee Regulation Amendment Approval Resolution of 2005. 21 DCMR 700.1 et seq.,” was approved effective November 26, 2005.

## CASE NOTES

### In general.

Remoteness of possibility that environmental group could succeed on merits of challenge to mayor’s decision to discontinue curbside recycling program, after Court of Appeals had rejected legal contention that mayor was required by statute to continue recycling program, eliminated need for review of other factors relating

to trial court’s grant of preliminary injunction requiring continuation of recycling program. *District of Columbia v. Sierra Club*, 670 A.2d 354, 1996 D.C. App. LEXIS 7 (1996).

Court of Appeals would decline, on separation of powers grounds, to review mayor’s exercise of his discretion to allocate scarce solid waste management funds so as to discontinue

curbside recycling program in order to continue garbage collection and alley cleaning, despite environmental group's argument that more funds would be expended to cancel recycling

program than to continue it. *District of Columbia v. Sierra Club*, 670 A.2d 354, 1996 D.C. App. LEXIS 7 (1996).

## § 8-1002. Purposes.

In enacting this subchapter, the Council supports the following purposes:

(1) To increase the life expectancy of the Interstate 95 Landfill and decrease the need for future expansion of alternative refuse disposal facilities through a comprehensive program of solid waste stream reduction.

(2) To develop alternative methods of recovering resources from solid waste, recommend uses for the recovered resources, and determine the impact of the distribution of the resources in existing markets.

(3) To identify methods of collection, reduction, and separation that will promote more efficient use of solid waste disposal facilities and contribute to more effective programs for the reuse of solid waste.

(4) To employ District government procurement procedures to develop market demand for recovered resources, with special emphasis on maximum District government use of recycled paper.

(5) To encourage public agencies, private organizations, and individuals to participate in the reclamation and recycling of resources from solid wastes.

(6) To promote policies of energy conservation, environmental protection, economic productivity, and cost-effectiveness in the District.

(Mar. 16, 1989, D.C. Law 7-226, § 3, 36 DCR 595.)

**Section references.** — This section is referenced in § 8-1004.

**Prior Codifications.** — 1981 Ed., § 6-3402.

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

## § 8-1003. Definitions.

For the purposes of this subchapter, the term:

(1) "Commercial solid waste stream" means that part of the solid waste stream that is not collected by the District government.

(2) "Commercial property" means any property that does not receive solid waste collection services from the District government.

(3) "Compost" means the substance produced through the decomposition of organic materials, including wood, paper, mulch, yard, and food waste, that is capable of being used as a soil amendment.

(4) "Composting" means the decomposition of organic materials to form compost.

(5) "Construction and demolition wastes" means the waste building materials and rubble resulting from construction, remodeling, repair, and demolition operation on houses, commercial buildings, pavements, and other structures.

(6) "Disposition" means the transport, placement, reuse, sale, donation, transfer, or temporary storage, for a period not exceeding 6 months, of recyclable materials for all possible uses except disposal as solid waste.



(7) "Intermediate processing facility" means a facility where commingled solid waste can be separated, processed, stored, assembled, and prepared for sale or other disposition, except incineration or burial.

(8) "Market" means the disposition of recyclable materials that are source separated in the District and exchanged for fair market value.

(9) "Multi-material recycling buy-back center" means any publicly or privately operated facility that pays the public for recyclable materials.

(10) "Office building" means any commercial property where the primary functions are the transaction of administrative, business, civic, or professional services including any library, museum, university, or other facility where handling goods, wares, or merchandise, in limited quantities, is accessory to the primary occupancy or use.

(11) "Paper" means all newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, memo paper, duplicator paper, continuous form paper, envelopes, printed material, or related cellulosic material containing not more than 10% by weight or volume of non-cellulosic material such as laminates, binders, coatings, or saturants.

(12) "Paper product" means any paper item or commodity, including paper napkins, towels, corrugated and other cardboard, construction material, toilet tissue, and related cellulosic products containing not more than 10% by weight or volume of non-cellulosic materials such as laminates, binders, coatings, or saturants.

(13) "Recycling" means a resource recovery method that involves the collection and treatment of waste material that can be reprocessed and returned to the economic mainstream as raw material or products.

(14) "Recyclable material" means material that would otherwise become municipal solid waste, and that may be collected, separated, or processed and returned to the economic mainstream as a raw material or product.

(15) "Recycled paper" means any paper the total weight of which is not less than 40% secondary waste paper material.

(16) "Recycled paper product" means any paper product consisting of not less than 40% secondary waste paper material.

(17) "Recycling service" means the service provided by a person engaged in the business of recycling, including the collection, processing, storage, purchase, sale, or disposition of recyclable materials.

(18) "Residential solid waste stream" means that part of the solid waste stream that is collected by the District government.

(19) "Residential property" means property that receives solid waste collection services from the District government including single family dwellings and any building or structure containing 3 or fewer dwelling units used exclusively for residential purposes.

(20) "Source separated recyclable material" means a recyclable material, including paper, metal, glass, yard waste, office paper, or plastic that is stored separately from residential and commercial solid waste for the purposes of collection, disposition, and recycling.

(21) "Solid waste" means garbage, refuse, or any other waste product including solid, liquid, semisolid, or contained gaseous material resulting from an industrial, commercial, or government operation or a community activity.



(22) "Solid waste stream" means all residential and commercial garbage or refuse generated within the District that, unless recycled, would be disposed of by landfilling or incineration.

(23) "White goods" means refrigerators, stoves, ice freezers or appliances that may contain chlorofluorocarbons.

(24) "Yard waste" means any organic material, except food, and includes wood, mulch, leaves, or plants.

(Mar. 16, 1989, D.C. Law 7-226, § 4, 36 DCR 595; Mar. 15, 1990, D.C. Law 8-93, § 2(a), 37 DCR 780; Sept. 8, 1990, D.C. Law 8-154, § 2(a), 37 DCR 4045; Feb. 5, 1994, D.C. Law 10-68, § 19(a), 40 DCR 6311; Sept. 24, 1994, D.C. Law 10-178, § 3(a), 41 DCR 5205.)

**Prior Codifications.** — 1981 Ed., § 6-3403.

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Legislative history of Law 8-93.** — Law 8-93, the "District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Amendment Temporary Act of 1989," was introduced in Council and assigned Bill No. 8-484. The Bill was adopted on first and second readings on December 5, 1989, and December 19, 1989, respectively. Signed by the Mayor on January 11, 1990, it was assigned Act No. 8-144 and transmitted to both Houses of Congress for its review. Law 8-93 became effective on March 15, 1990.

**Legislative history of Law 8-154.** — Law 8-154, the "Recycling Clarification Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-408, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on May 15, 1990, and May 29, 1990, respectively. Signed by the Mayor on June 14, 1990, it was assigned Act No. 8-215 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 10-68.** — D.C. Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

**Legislative history of Law 10-178.** — Law 10-178, the "District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-10, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on June 7, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 26, 1994, it was assigned Act No. 10-303 and transmitted to both Houses of Congress for its review. D.C. Law 10-178 became effective on September 24, 1994.

## § 8-1004. Solid waste management policy for the District.

(a) The following waste management hierarchy is established for the District:

- (1) Volume reduction at the source;
- (2) Recycling, composting, and reuse; or
- (3) Disposal in landfill facilities.

(b) On October 1, 1989, December 1, 1993, and every two years thereafter, the Mayor shall submit to the Council, for review, a comprehensive solid waste management plan consistent with the purposes in § 8-1002 and the hierarchy in subsection (a) of this section. The plan shall include the following:

- (1) A comprehensive analysis of the solid waste stream composition of the District for the next 10 years;
- (2) A comprehensive analysis of the solid waste disposal and recycling

systems of the District for the next 20 years, including an assessment of the life expectancy of the Lorton Landfill;

(3) An analysis of the market for recycled materials;

(4) An analysis of recycling opportunities in the Washington Metropolitan Area;

(5) An analysis of the feasibility of establishing local markets for recyclable materials in and near the District; and

(6) An assessment of the risks of waste management alternatives.

(c) The Mayor shall consult with the Environmental Planning Commission established pursuant to § 3-1001, and private entities and individuals in implementing the provisions of this subchapter.

(Mar. 16, 1989, D.C. Law 7-226, § 5, 36 DCR 595; Sept. 24, 1994, D.C. Law 10-178, § 3(b), 41 DCR 5205.)

**Prior Codifications.** — 1981 Ed., § 6-3404.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(a) of District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Temporary Amendment Act of 1992 (D.C. Law 9-263, March 27, 1993, law notification 40 DCR 2333).

For temporary (225 day) amendment of section, see § 2(a) of District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Temporary Amendment Act of 1993 (D.C. Law 10-86, March 19, 1994, law notification 41 DCR 1636).

**Emergency legislation.** — For temporary amendment of section, see § 2(a) of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Emergency Amendment Act of 1992 (D.C. Act 9-346, December 22, 1992, 40 DCR 141).

For temporary amendments of section, see

§ 2(a) of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Emergency Amendment Act of 1993 (D.C. Act 10-147, November 4, 1993, 40 DCR 8091) and § 2(a) of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Congressional Review Emergency Amendment Act of 1994 (D.C. Act 10-185, February 2, 1994, 41 DCR 627).

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Legislative history of Law 10-178.** — For legislative history of D.C. Law 10-178, see Historical and Statutory Notes following § 8-1003.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-226, the “D.C. Solid Waste Management & Multi-Material Recycling Act of 1988”, see Mayor’s Order 89-160, July 20, 1989.

## § 8-1005. Priority for recycling.

The Mayor shall not construct or retrofit any facility in the District for the purpose of solid waste incineration or resource recovery through incineration until all of the provisions of this subchapter are implemented or a 25% reduction in the solid waste stream is achieved through District-wide recycling, whichever comes first.

(Mar. 16, 1989, D.C. Law 7-226, § 6, 36 DCR 595.)

**Prior Codifications.** — 1981 Ed., § 6-3405.

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Delegation of Authority.** — Delegation of

authority pursuant to D.C. Law 7-226, the “D.C. Solid Waste Management & Multi-Material Recycling Act of 1988”, see Mayor’s Order 89-160, July 20, 1989.



## § 8-1006. Recyclable materials recovery targets.

(a) The Mayor shall adhere to recovery targets for recyclable materials which shall include, at a minimum, the following schedule:

(1) The recycling of at least 10% of the total commercial solid waste stream of the prior year by the end of the first full year that the mandatory source separation requirements of § 8-1007(a) are in effect;

(2) The recycling of at least 15% of the total solid waste stream of the prior year by the end of the first full year that the mandatory source separation requirements of § 8-1007(c) are in effect;

(3) The recycling of at least 35% of the total solid waste stream of the District by October 1, 1992; and

(4) The recycling of at least 45% of the total solid waste stream of the District by October 1, 1994.

(b) For the purpose of this section, the term "total solid waste stream" means the sum of the residential and commercial solid waste stream disposed of as solid waste, measured in tons, plus the total number of residential and commercial recyclable materials recycled.

(c) The calculation of the recyclable materials recovery targets shall consist of the sum of the total solid waste stream divided by the sum of the residential and commercial recyclable materials recycled.

(Mar. 16, 1989, D.C. Law 7-226, § 7, 36 DCR 595; Sept. 24, 1994, D.C. Law 10-178, § 3(c), 41 DCR 5205.)

**Section references.** — This section is referenced in § 8-1008 and § 8-1014.

**Prior Codifications.** — 1981 Ed., § 6-3406.

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Legislative history of Law 10-178.** — For

legislative history of D.C. Law 10-178, see Historical and Statutory Notes following § 8-1003.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-226, the "D.C. Solid Waste Management & Multi-Material Recycling Act of 1988", see Mayor's Order 89-160, July 20, 1989.

## § 8-1007. Mandatory source separation program.

(a) By October 1, 1989, owners and occupants of commercial property shall separate from their solid waste, bundle or containerize, and provide for the recycling of all newspaper. In addition, owners and occupants of office buildings, including the District government, shall separate for collection and provide for the recycling of all paper, as required by the Mayor by rules issued pursuant to § 8-1018.

(b) By October 1, 1990, owners and occupants of commercial property shall separate for collection and provide for the recycling of all glass and metal.

(c) By October 1, 1989, occupants of residential property shall separate from their solid waste and separately bundle or containerize all yard waste and newspaper for recycling, as required by the Mayor by rules pursuant to § 8-1018. The Mayor shall provide recycling collection services for yard waste and newspaper no less than twice each month and notify all residents receiving collection services from the District of scheduled collection days as required by subsection (e) of this section.



(d) By April 1, 1990, occupants of residential property shall separate from their solid waste and containerize all metals and glass in 1 container as required by the Mayor by rules issued pursuant to § 8-1018. The Mayor shall provide collection services and establish a collection schedule to implement this subsection pursuant to subsection (e) of this section.

(e) The Mayor shall, by July 1, 1989, and at least once every 6 months after that date, notify all persons occupying residential premises within the District of local recycling opportunities, the dates for collection of source separated materials, and all other source separation requirements of this subchapter. In order to fulfill the notification requirements of this subsection, the Mayor shall advertise in a newspaper with wide circulation in the District, post in public places, and mail notice with the residential water and sewer bills as the Mayor deems necessary and appropriate.

(f) The Mayor shall have the authority to mandate the source separation and recycling of any other component of the solid waste stream by owners and occupants of residential and commercial properties in the District of Columbia.

(Mar. 16, 1989, D.C. Law 7-226, § 8, 36 DCR 595; Mar. 15, 1990, D.C. Law 8-93, § 2(b), 37 DCR 780; Sept. 8, 1990, D.C. Law 8-154, § 2(b), 37 DCR 4045; Sept. 24, 1994, D.C. Law 10-178, § 3(d), 41 DCR 5205.)

**Section references.** — This section is referenced in § 8-1006 and § 8-1008.

**Prior Codifications.** — 1981 Ed., § 6-3407.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(b) of District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Temporary Amendment Act of 1992 (D.C. Law 9-263, March 27, 1993, law notification 40 DCR 2333).

For temporary (225 day) amendment of section, see § 2(b) of District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Temporary Amendment Act of 1993 (D.C. Law 10-86, March 19, 1994, law notification 41 DCR 1636).

**Emergency legislation.** — For temporary amendment of section, see § 2(b) of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Emergency Amendment Act of 1992 (D.C. Act 9-346, December 22, 1992, 40 DCR 141).

For temporary amendments of section, see § 2(b) of the District of Columbia Solid Waste

Management and Multi-Material Recycling Act of 1988 Emergency Amendment Act of 1993 (D.C. Act 10-147, November 4, 1993, 40 DCR 8091) and § 2 (b) of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Congressional Review Emergency Amendment Act of 1994 (D.C. Act 10-185, February 2, 1994, 41 DCR 627).

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Legislative history of Law 8-93.** — For legislative history of D.C. Law 8-93, see Historical and Statutory Notes following § 8-1003.

**Legislative history of Law 8-154.** — For legislative history of D.C. Law 8-154, see Historical and Statutory Notes following § 8-1003.

**Legislative history of Law 10-178.** — For legislative history of D.C. Law 10-178, see Historical and Statutory Notes following § 8-1003.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-226, the "D.C. Solid Waste Management & Multi-Material Recycling Act of 1988", see Mayor's Order 89-160, July 20, 1989.

## CASE NOTES

### In general.

Provision of Omnibus Budget Support Emergency Act (OBSEA) continuing recycling program only to extent of funds available from recycling surcharge or solid waste management funds did not require mayor to use solid waste management funds to continue curbside recycling program even though result would be to

discontinue garbage collection or other mandatory programs which mayor had determined would better serve public interest; OBSEA did not plainly provide for judicial intrusion into mayor's core executive function to apportion funds so as to achieve their most effective and economic use. D.C. Code 1981, § 6-3407(d), 47-310(a); D.C. Mun. Regs. title 42, §§ 2217,

2229. District of Columbia v. Sierra Club, 670 A.2d 354, 1996 D.C. App. LEXIS 7 (1996).

Statute requiring mayor to provide curbside recycling collection services to city residents allowed court to evaluate mayor's acts or omissions in reference to that obligation and, thus,

presumption of judicial reviewability applied in absence of anything in statute expressly or implicitly precluding such review. D.C. Code 1981, § 6-3407(d). District of Columbia v. Sierra Club, 670 A.2d 354, 1996 D.C. App. LEXIS 7 (1996).

## § 8-1008. Establishment of Office of Recycling.

(a) The Office of Recycling is established as a single administrative unit within the executive office of the Director of the Department of Public Works to administer the recycling program in the District.

(b) The duties of the Office shall include to:

(1) Coordinate, supervise, and implement the mandatory source separation program established by § 8-1007, including a system to respond to citizen inquiries;

(2) Ensure the adherence of the District to target dates for solid waste reduction pursuant to § 8-1006;

(3) Develop an educational and promotional campaign, in conjunction with the Environmental Planning Commission, for commercial and residential solid waste generators on the mandatory source separation program and recycling;

(4) Research the technology available for solid waste utilization, including recycling;

(5) Identify potential markets for recyclable materials and obtain statements of interest for recovered materials;

(6) Identify the amount and characteristics of the solid waste stream in the District;

(7) Provide an assessment of the potential impact of alternative methods of solid waste management, including the public health, physical, social, economic, fiscal, environmental, and aesthetic implications;

(8) Conduct and evaluate the results of public forums or surveys of local citizen opinion on solid waste management practices in conjunction with the Environmental Planning Commission;

(9) Make site analyses;

(10) Coordinate efforts to stimulate markets for recycled materials, including District government purchasing policies;

(11) Serve as a liaison between the District and neighboring jurisdictions in developing a regional recycling and waste reduction campaign;

(12) Develop a semi-annual household hazardous waste collection day to educate citizens on household hazardous waste and convenient and safe disposal through separate collection; and

(13) License businesses and vehicles to engage in the collection or transportation of recyclable materials as required by this subchapter or by rules issued pursuant to § 8-1018.

(c) Within 90 days of March 16, 1989, the Mayor shall designate a Recycling Coordinator who shall head the Office of Recycling.

(Mar. 16, 1989, D.C. Law 7-226, § 9, 36 DCR 595; Sept. 8, 1990, D.C. Law



8-154, § 2(c), 37 DCR 4045; Sept. 24, 1994, D.C. Law 10-178, § 3(e), 41 DCR 5205; Apr. 18, 1996, D.C. Law 11-110, § 16, 43 DCR 530.)

**Section references.** — This section is referenced in § 8-1014.

**Prior Codifications.** — 1981 Ed., § 6-3408.

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Legislative history of Law 8-154.** — For legislative history of D.C. Law 8-154, see Historical and Statutory Notes following § 8-1003.

**Legislative history of Law 10-178.** — For legislative history of D.C. Law 10-178, see Historical and Statutory Notes following § 8-1003.

**Legislative history of Law 11-110.** — Law 11-110, the “Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

## § 8-1009. Right to recycle individual solid waste not limited.

Nothing in this subchapter shall limit the right of an individual to donate, sell, or otherwise dispose of his or her recyclable materials.

(Mar. 16, 1989, D.C. Law 7-226, § 10, 36 DCR 595.)

**Prior Codifications.** — 1981 Ed., § 6-3409.

**Legislative history of Law 7-226.** — For

legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

## § 8-1010. Multi-material recycling buy-back centers and intermediate processing facilities.

(a) The Mayor shall establish, on or before October 1, 1989, at least 1 multi-material buy-back center in the District, which shall be publicly or privately operated and pay the public for recyclable materials.

(b) The Mayor shall establish at least 1 intermediate processing facility in the District to receive recyclable materials designated for source separation pursuant to this subchapter and any other recyclable materials designated by the Mayor.

(Mar. 16, 1989, D.C. Law 7-226, § 11, 36 DCR 595.)

**Prior Codifications.** — 1981 Ed., § 6-3410.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(c) of District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Temporary Amendment Act of 1992 (D.C. Law 9-263, March 27, 1993, law notification 40 DCR 2333).

For temporary (225 day) amendment of section, see § 2(c) of District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Temporary Amendment Act of 1993 (D.C. Law 10-86, March 19, 1994, law notification 41 DCR 1636).

**Emergency legislation.** — For temporary amendment of section, see § 2(c) of the District of Columbia Solid Waste Management and

Multi-Material Recycling Act of 1988 Emergency Amendment Act of 1992 (D.C. Act 9-346, December 22, 1992, 40 DCR 141).

For temporary amendments of section, see § 2(c) of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Emergency Amendment Act of 1993 (D.C. Act 10-147, November 4, 1993, 40 DCR 8091) and § 2(c) of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Congressional Review Emergency Amendment Act of 1994 (D.C. Act 10-185, February 2, 1994, 41 DCR 627).

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Delegation of Authority.** — Delegation of



authority pursuant to D.C. Law 7-226, the "D.C. Solid Waste Management & Multi-Mate-

rial Recycling Act of 1988", see Mayor's Order 89-160, July 20, 1989.

### CASE NOTES

#### In general.

Solid Waste Management and Multi-Material Recycling Act did not give director of Department of Public Works (DPW) authority to seek judicial review of Contract Appeals

Board's (CAB) decision relating to recycling contracts in bid protest case. D.C. Code 1981, §§ 6-3410(a), 6-3411(a). *Francis v. Recycling Solutions*, 695 A.2d 63, 1997 D.C. App. LEXIS 138 (1997).

## § 8-1011. Contracting authority.

(a) The Mayor may enter into contracts or agreements on behalf of the District for recycling services or the operation of a multi-material recycling buy-back center and an intermediate processing facility for the collection, storage, processing, and disposition of recyclable materials designated to be source separated pursuant to this subchapter, if these services are not otherwise provided by the District government. The Director of the Department of Public Works shall enter into contracts or agreements to market recyclable materials, including the sale or disposition of recyclable materials, and shall purchase or lease any equipment necessary to facilitate the marketing of recyclable materials.

(b) The Mayor may issue grants for solid waste and recycling research, collecting, marketing, and other services to universities and nonprofit institutions, and businesses with funds generated by the recycling surcharge authorized pursuant to § 8-1015.

(Mar. 16, 1989, D.C. Law 7-226, § 12, 36 DCR 595; Mar. 15, 1990, D.C. Law 8-93, § 2(c), 37 DCR 780; Sept. 8, 1990, D.C. Law 8-154, § 2(d), 37 DCR 4045; Sept. 24, 1994, D.C. Law 10-178, § 3(f), 41 DCR 5205.)

**Prior Codifications.** — 1981 Ed., § 6-3411.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(d) of District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Temporary Amendment Act of 1992 (D.C. Law 9-263, March 27, 1993, law notification 40 DCR 2333).

For temporary (225 day) amendment of section, see § 2(d) of District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Temporary Amendment Act of 1993 (D.C. Law 10-86, March 19, 1994, law notification 41 DCR 1636).

**Emergency legislation.** — For temporary amendment of section, see § 2(d) of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Emergency Amendment Act of 1992 (D.C. Act 9-346, December 22, 1992, 40 DCR 141).

For temporary amendments of section, see § 2(d) of the District of Columbia Solid Waste Management and Multi-Material Recycling Act

of 1988 Emergency Amendment Act of 1993 (D.C. Act 10-147, November 4, 1993, 40 DCR 8091) and § 2(d) of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Congressional Review Emergency Amendment Act of 1994 (D.C. Act 10-185, February 2, 1994, 41 DCR 627).

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Legislative history of Law 8-93.** — For legislative history of D.C. Law 8-93, see Historical and Statutory Notes following § 8-1003.

**Legislative history of Law 8-154.** — For legislative history of D.C. Law 8-154, see Historical and Statutory Notes following § 8-1003.

**Legislative history of Law 10-178.** — For legislative history of D.C. Law 10-178, see Historical and Statutory Notes following § 8-1003.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-226, the "D.C. Solid Waste Management & Multi-Material Recycling Act of 1988", see Mayor's Order 89-160, July 20, 1989.

CASE NOTES

**In general.**

Solid Waste Management and Multi-Material Recycling Act did not give director of Department of Public Works (DPW) authority to seek judicial review of Contract Appeals

Board's (CAB) decision relating to recycling contracts in bid protest case. D.C. Code 1981, §§ 6-3410(a), 6-3411(a). *Francis v. Recycling Solutions*, 695 A.2d 63, 1997 D.C. App. LEXIS 138 (1997).

**§ 8-1012. Compost materials use requirements.**

The Mayor shall, to the maximum extent practicable and feasible, use compost materials in any land maintenance activity operated with public funds and make compost materials available to the public.

(Mar. 16, 1989, D.C. Law 7-226, § 13, 36 DCR 595.)

**Prior Codifications.** — 1981 Ed., § 6-3412.

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Delegation of Authority.** — Delegation of

authority pursuant to D.C. Law 7-226, the "D.C. Solid Waste Management & Multi-Material Recycling Act of 1988", see Mayor's Order 89-160, July 20, 1989.

**§ 8-1013. District procurement policies.**

(a) The Mayor shall modify all bid specifications relating to the purchase of paper and paper products to promote the maximum purchase of paper and products made from recycled paper and recycled paper products. Preference shall be given to recycled paper and recycled paper products, unless the price of the paper and paper products is not competitive for the purpose intended. For the purposes of this section, the term "competitive" means a price within 10% of the price of items that are manufactured or produced from virgin paper products.

(b) The Mayor shall make a yearly written determination as to whether the price of recycled paper and recycled paper products is competitive, and on the percentage of recycled paper and recycled paper products purchased by the District government during the prior year. The Mayor shall submit a copy of the report to the Council on January 1, 1990, and on January 1st of each subsequent year.

(c) Unless the price of recycled paper and recycled paper products is not competitive as determined by the Mayor pursuant to subsection (b) of this section, the percentage of the total amount of paper or paper products made from recycled paper or recycled paper products purchased by the District shall be as follows:

- (1) Not less than 15% by October 1, 1990;
- (2) Not less than 30% by October 1, 1991; and
- (3) Not less than 45% by October 1, 1992.

(d) The Mayor, after formal advertisement and solicitation of proposals for recycled paper or recycled paper products, may award a contract for paper or paper products manufactured or produced from virgin paper products in the manner prescribed by law, if no competitive proposals for recycled paper or recycled paper products are received. The award of a contract for virgin paper



products shall not relieve the Mayor of any future obligation to contract for recycled paper or recycled paper products.

(e) The Mayor shall investigate other products that are recyclable or composed, in whole or in part, of recycled materials that can be purchased for use by the District government and submit a report on the findings of the investigation and a plan for the purchase of other recycled products including glass, plastics, and tires within 6 months after March 16, 1989.

(Mar. 16, 1989, D.C. Law 7-226, § 14, 36 DCR 595.)

**Prior Codifications.** — 1981 Ed., § 6-3413.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(e) of District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Temporary Amendment Act of 1992 (D.C. Law 9-263, March 27, 1993, law notification 40 DCR 2333).

For temporary (225 day) amendment of section, see § 2(e) of District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Temporary Amendment Act of 1993 (D.C. Law 10-86, March 19, 1994, law notification 41 DCR 1636).

**Emergency legislation.** — For temporary amendment of section, see § 2(e) of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Emergency Amendment Act of 1992 (D.C. Act 9-346, December 22, 1992, 40 DCR 141).

For temporary amendments of section, see § 2(e) of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Emergency Amendment Act of 1993 (D.C. Act 10-147, November 4, 1993, 40 DCR 8091) and § 2(e) of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Congressional Review Emergency Amendment Act of 1994 (D.C. Act 10-185, February 2, 1994, 41 DCR 627).

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-226, the “D.C. Solid Waste Management & Multi-Material Recycling Act of 1988”, see Mayor’s Order 89-160, July 20, 1989.

## § 8-1014. Annual reporting requirements; submission of plan.

(a) Beginning on January 15, 1991, and on each January 15th of each subsequent year, the Mayor shall submit a recycling report to the Council for review, which shall contain the following:

(1) The tonnage of solid waste generated, disposed of, and recycled by the District;

(2) An evaluation of the mandatory recycling program established pursuant to this subchapter;

(3) The tonnage of paper collected and recycled from District government offices;

(4) The revenue generated through the disposition of recycled materials for the District;

(5) The approximate cost avoidance achieved through the District’s mandatory recycling program;

(6) The overall success of meeting the recovery targets set forth in § 8-1006;

(7) An evaluation of markets for recycled materials and how District policies have stimulated markets;

(8) An evaluation of the educational and promotional campaign on the mandatory source separation program as developed by the District of Columbia Recycling Coordinator pursuant to § 8-1008.



(b) By October 1, 1989, the Mayor shall submit to the Council a plan for the following:

- (1) The recovery of tires from the solid waste stream for reuse, recycling, or other disposition;
- (2) The segregation, treatment, labeling, tracking, transportation, and disposition of medical, infectious, and hazardous waste;
- (3) The recycling and reuse of construction and demolition wastes;
- (4) The provision of tax incentives and low interest loans to District businesses and residents that use recycled products or purchase or lease recycling equipment;
- (5) The recycling of plastic polystyrene and polyvinyl chloride containers.

(Mar. 16, 1989, D.C. Law 7-226, § 15, 36 DCR 595; Sept. 24, 1994, D.C. Law 10-178, § 3(g), 41 DCR 5205.)

**Prior Codifications.** — 1981 Ed., § 6-3414.

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Legislative history of Law 10-178.** — For legislative history of D.C. Law 10-178, see Historical and Statutory Notes following § 8-1003.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-226, the “D.C. Solid Waste Management & Multi-Material Recycling Act of 1988”, see Mayor’s Order 89-160, July 20, 1989.

## § 8-1015. Recycling surcharge and collection fee.

(a)(1) The Mayor shall impose a recycling surcharge on all persons who dispose of solid waste through the solid waste disposal system of the District to offset the cost of developing new and additional methods of solid waste management.

(2) The Mayor shall provide a credit to apply to the recycling surcharge imposed by this subsection for persons who pay the fee imposed by subsection (b) of this section which credit shall be equivalent to the recycling surcharge imposed by this subsection.

(b) The Mayor shall impose a collection fee, for the privilege of collecting solid waste as a commercial activity, on all persons licensed to collect solid waste in the District. The collection fee shall be equivalent to the recycling surcharge authorized in subsection (a) of this section.

(c) Persons subject to the recycling surcharge or the collection fee imposed pursuant to this section shall:

(1) Submit periodic reports to the Mayor at the times specified by regulation; the reports shall contain all information the Mayor considers reasonably necessary to determine compliance with this subchapter, including the quantity of solid waste collected and disposed of; and

(2) Retain records of solid waste collected and disposed of for 3 years or such other period of time as the Mayor may prescribe.

(d) For the purpose of ensuring compliance with this section, the Mayor may periodically inspect all records, documents, or data compilations in the possession or control of persons subject to the recycling surcharge or collection fee required by this section. Inspections shall take place during normal operating hours.

(e) Failure to maintain records, submit periodic reports, or pay the recycling surcharge or collection fee required by this section may result in the imposition of 1 or more of the following penalties:

(1) A \$25,000 fine;

(2) An assessment of twice the amount of the recycling surcharge or fee due; or

(3) Suspension or revocation of a solid waste collector's license issued pursuant to section 606(a) of Chapter 3 of Title 8 of the District of Columbia Health Regulations, issued June 29, 1971 (Reg. 71-21; 21 DCMR 710).

(f) Money generated from the recycling surcharge and collection fee required by this section shall be used for the purposes set forth in subsection (a)(1) of this section. Any monies not expended at the end of a fiscal year shall revert to the unrestricted fund balance of the General Fund of the District of Columbia.

(g) On January 15th of each year the Mayor shall submit to the Council the following:

(1) An annual report on all income received from the recycling surcharge and collection fee during the previous fiscal year;

(2) A line-item report on all disbursements for recycling activities during the previous fiscal year; and

(3) A proposed plan for the use of all monies for recycling activities for the current fiscal year.

(h) The proposed plan submitted by the Mayor pursuant to subsection (g)(3) of this section shall be submitted to the Council for approval, in whole or in part, by resolution. Expenditure for recycling activities shall be subject to Council approval of the proposed plan.

(Mar. 16, 1989, D.C. Law 7-226, § 16, 36 DCR 595; May 20, 1994, D.C. Law 10-117, § 8(b), 41 DCR 524; Sept. 24, 1994, D.C. Law 10-178, § 3(h), 41 DCR 5205; May 9, 1995, D.C. Law 11-12, § 2(a), 42 DCR 1265; Apr. 18, 1996, D.C. Law 11-110, § 63, 43 DCR 530; Apr. 9, 1997, D.C. Law 11-255, § 15, 44 DCR 1271; Sept. 14, 2011, D.C. Law 19-21, § 9098, 58 DCR 6226.)

**Section references.** — This section is referenced in § 8-807.01, § 8-905, § 8-1011, § 8-1015.01, § 8-1017.01, § 8-1022, and § 8-1057.

**Prior Codifications.** — 1981 Ed., § 6-3415.

**Effect of amendments.** — D.C. Law 19-21, in subsec. (f), substituted “for the purposes set forth in subsection (a)(1) of this section. Any monies not expended at the end of a fiscal year shall revert to the unrestricted fund balance of the General Fund of the District of Columbia” for “to fund recycling activities in the District, no more than 25% of which shall go to fund the recycling educational and promotional activities of the Environmental Planning Commission”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 7(b) of Illegal Dumping Enforcement Temporary Act of 1993 (D.C. Law 10-62, No-

vember 20, 1993, law notification 40 DCR 8455).

For temporary (225 day) amendment of section, see § 2 of Recycling Fee and Illegal Dumping Temporary Amendment Act of 1994 (D.C. Law 10-191, October 1, 1994, law notification 41 DCR 6934).

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 3 of (D.C. Law 17-13, July 17, 2007, law notification 54 DCR 8682).

**Emergency legislation.** — For temporary amendments of section, see § 7(b) of the Illegal Dumping Enforcement Emergency Act of 1993 (D.C. Act 10-89, August 4, 1993, 40 DCR 6074) and § 7(b) of the Illegal Dumping Enforcement Congressional Recess Emergency Act of 1993 (D.C. Act 10-138, November 1, 1993, 40 DCR 7741).

For temporary amendment of section, see § 2 of the Recycling Fee and Illegal Dumping Emergency Amendment Act of 1994 (D.C. Act 10-269, July 7, 1994, 41 DCR 4669).

For temporary (90 day) addition, see § 3 of Solid Waste Disposal Fee Emergency Amendment Act of 2007 (D.C. Act 17-32, April 19, 2007, 54 DCR 4083).

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Legislative history of Law 10-117.** — Law 10-117, the “Illegal Dumping Enforcement Act of 1994,” was introduced in Council and assigned Bill No. 10-249, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on December 7, 1993, and January 4, 1994, respectively. Signed by the Mayor on January 25, 1994, it was assigned Act No. 10-181 and transmitted to both Houses of Congress for its review. D.C. Law 10-117 became effective on May 20, 1994.

**Legislative history of Law 10-178.** — For legislative history of D.C. Law 10-178, see Historical and Statutory Notes following § 8-1003.

**Legislative history of Law 11-12.** — For legislative history of D.C. Law 11-12, see Historical and Statutory Notes following § 8-1015.01.

**Legislative history of Law 11-110.** — For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 8-1008.

**Legislative history of Law 11-255.** — Law 11-255, the “Second Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 8-102.03.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 11-12, the “D.C. Recycling Fee and Illegal Dumping Amendment Act of 1995”, see Mayor’s Order 95-89, June 22, 1995.

## § 8-1015.01. Tire recycling fee.

The Mayor shall collect a recycling fee of \$2 for each new motor vehicle tire sold in the District of Columbia. The proceeds from this fee shall be included with the recycling surcharge and collection fees under § 8-1015. Persons subject to this recycling fee shall not be responsible for requirements under § 8-1015(c).

(Mar. 16, 1989, D.C. Law 7-226, § 16a, as added May 9, 1995, D.C. Law 11-12, § 2(b), 42 DCR 1265.)

**Prior Codifications.** — 1981 Ed., § 6-3415.1.

**Legislative history of Law 11-12.** — Law 11-12, the “Recycling Fee and Illegal Dumping Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-15, which was retained by Council. The Bill was adopted on first and second readings on January 17, 1995, and February 7, 1995, respectively. Signed by

the Mayor on March 6, 1995, it was assigned Act No. 11-23 and transmitted to both Houses of Congress for its review. D.C. Law 11-12 became effective on May 9, 1995.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 11-12, the “D.C. Recycling Fee and Illegal Dumping Amendment Act of 1995”, see Mayor’s Order 95-89, June 22, 1995.

## § 8-1016. Information clearinghouse.

The Mayor shall maintain a central clearinghouse for information regarding the implementation of this subchapter and recycling in general. The clearinghouse shall provide data regarding solid waste research and planning, solid waste management policies, markets for recyclable materials, and regional cooperation.

(Mar. 16, 1989, D.C. Law 7-226, § 17, 36 DCR 595.)



**Prior Codifications.** — 1981 Ed., § 6-3416.

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Delegation of Authority.** — Delegation of

authority pursuant to D.C. Law 7-226, the “D.C. Solid Waste Management & Multi-Material Recycling Act of 1988”, see Mayor’s Order 89-160, July 20, 1989.

## § 8-1017. Enforcement.

(a) The provisions of this subchapter, including the establishment of a schedule of fines for violations of this subchapter, shall be enforced by the Mayor pursuant to Chapter 8 of this title.

(b) In addition to the penalties imposed pursuant to subsection (a) of this section, the Mayor may refuse to collect or dispose of any solid waste that is not separated as required by this subchapter or any rules issued pursuant to § 8-1018.

(c) The Mayor may deny the issuance or renewal of a license to engage in commercial collection or transportation of solid wastes by vehicle if the applicant does not guarantee that recyclable materials separated as required by this subchapter or by rules issued pursuant to § 8-1018 will be recycled.

(Mar. 16, 1989, D.C. Law 7-226, § 18, 36 DCR 595.)

**Prior Codifications.** — 1981 Ed., § 6-3417.

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-226, the “D.C. Solid Waste Management & Multi-Material Recycling Act of 1988”, see Mayor’s Order 89-160, July 20, 1989.

Delegation of Authority Under the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 and the Litter Control Administration Act of 1985, see Mayor’s Order 2008-157, November 20, 2008 (55 DCR 12539).

### § 8-1017.01. Applicability.

The provisions of this subchapter shall apply only to the extent of funds available through the recycling surcharge in § 8-1015 or appropriated monies allocated for solid waste management activities.

(Mar. 16, 1989, D.C. Law 7-226, § 18a, as added Sept. 26, 1995, D.C. Law 11-52, § 804, 42 DCR 3684.)

**Prior Codifications.** — 1981 Ed., § 6-3417.1.

**Emergency legislation.** — For temporary addition of section, see § 504 of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 804 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

**Legislative history of Law 11-52.** — Law

11-52, the “Omnibus Budget Support Act of 1995,” was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

## § 8-1018. Rules.

Within 90 days after March 16, 1989, the Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue proposed rules to implement the

provisions of this subchapter. The proposed rules shall be submitted to the Council for a 45-day period of review excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(Mar. 16, 1989, D.C. Law 7-226, § 20, 36 DCR 595.)

**Section references.** — This section is referenced in § 8-1007, § 8-1008, and § 8-1017.

**Prior Codifications.** — 1981 Ed., § 6-3418.

**Legislative history of Law 7-226.** — For legislative history of D.C. Law 7-226, see Historical and Statutory Notes following § 8-1001.

**Editor's notes.** — Approval in part and disapproval in part of proposed rules: Pursuant to Resolution 8-102, the "District of Columbia Solid Waste Management and Multi-Material Recycling Act Proposed Rules Approval and Disapproval Resolution of 1989", effective October 10, 1989, the Council approved in part and disapproved in part the proposed rules issued pursuant to the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988.

Pursuant to Resolution 8-201, the "District of Columbia Solid Waste Management & Multi-Material Recycling Act Proposed Amendments to Rules Approval & Disapproval Resolution of 1990", effective February 9, 1990, the Council

approved in part and disapproved in part the proposed rules issued pursuant to the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988.

Approval and disapproval of amendments to rules: Pursuant to Resolution 8-228, the "District of Columbia Solid Waste Management and Multi-Material Recycling Act Proposed Mayoral Amendments to Rules Approval & Disapproval Resolution of 1990", effective June 8, 1990, the Council approved, in part, and disapproved, in part, the proposed Mayoral amendments to the rules issued pursuant to the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988.

Recycling Rules Amendment Conditional Approval Resolution of 1992: Pursuant to Resolution 9-231, effective May 22, 1992, the Council conditionally approved the proposed rules to amend the recycling regulations and corresponding schedule of fines.

## § 8-1019. Minimum recycled content percentage requirements.

(a) Except as provided in subsection (g) of this section, beginning on January 1, 1994, if any person, including any partnership, corporation, or association, sells or distributes a significant quantity of a paper or paper product, subject to this section, in the District of Columbia ("District"), the paper or paper product shall contain in the aggregate for the calendar year at least the minimum percentage of recycled content designated in this section or in the rules issued, or amended, by the United States Environmental Protection Agency ("EPA") pursuant to § 6002 of the Resource Conservation and Recovery Act of 1976, approved October 21, 1976 (90 Stat. 2822; 42 U.S.C. § 6962), and set forth in 40 C.F.R. 250.21 (Table 1).

(b) For the purposes of this section, the phrase "significant quantity" of a paper or paper product means an average per-issue circulation of at least 30,000 copies, an annual weight of at least 500 tons, or annual gross receipts of at least \$100,000 from the sale or distribution of a paper or paper product. The phrase "paper or paper product subject to this section" means any paper or paper product selected by the EPA for inclusion in the table set forth in subsection (c) of this section. If the EPA finds insufficient production of a particular paper or paper product with recycled content to assure adequate competition, the paper or paper product shall not be subject to this section.

(c) Table of minimum recycled content requirements.

	Minimum percentage of recovered materials	Minimum percentage of postconsumer recovered materials	Minimum percentage of waste paper
Newsprint .....	—	40	—
High grade bleached printing and writing paper:			
Offset printing .....	—	—	50
Mimeo and duplicator paper .....	—	—	50
Writing (stationery) .....	—	—	50
Office paper (e.g. note pads) .....	—	—	50
Paper for high-speed copiers .....	—	—	*
Envelopes .....	—	—	50
Form bond including computer paper and carbonless .....	—	—	*
Book papers .....	—	—	50
Bond papers .....	—	—	50
Ledger .....	—	—	50
Cover stock .....	—	—	50
Cotton fiber papers .....	25	—	—
Tissue products:			
Toilet tissue .....	—	20	—
Paper towels .....	—	40	—
Paper napkins .....	—	30	—
Facial tissue .....	—	5	—
Doilies .....	—	40	—
Industrial wipers .....	—	0	—
Unbleached packaging:			
Corrugated boxes .....	—	35	—
Fiber boxes .....	—	35	—
Brown paper (e.g., bags) .....	—	5	—
Recycled paperboard:			
Recycled paperboard products including folding cartons .....	—	80	—
Pad backing .....	—	90	—

\*EPA found insufficient production of these papers with recycled content to assure adequate competition.

(d) For the purposes of this section, the terms used in the table of minimum recycled content requirements in subsection (c) of this section shall have the same meaning as those terms have in 40 C.F.R. 250.4.



(e) The Mayor shall publish notice in the District of Columbia Register within 30 days after any amendment by the EPA to 40 C.F.R. subsection 250.21 (Table 1) regarding the minimum recycled content requirements set forth in subsection (c) of this section. Any amendment to the table shall also be published in the District of Columbia Official Code.

(f) Notwithstanding the date for compliance with the recycled content percentage requirements set forth in subsection (a) of this section, the dates for compliance with the recycled content percentage requirement for newsprint shall be as follows:

- (1) 12% for calendar year ("CY") 1992;
- (2) 12% for CY 1993; and
- (3) 20% for CY 1994 and all subsequent calendar years.

(g)(1) The recycled content percentages for newsprint required by this section for newspapers sold or distributed in the District shall be measured in the aggregate for all such newspapers collectively, on a District-wide basis.

(2) However, in the year following any year in which the Mayor determines, based on the reports submitted under § 8-1020, that the required recycled content percentages for newsprint for the previous year were not achieved in the aggregate on a District-wide basis, then each person subject to this section shall meet the required percentages.

(Mar. 16, 1989, D.C. Law 7-226, § 22, as added Mar. 6, 1991, D.C. Law 8-208, § 2, 37 DCR 8458; July 22, 1992, D.C. Law 9-130, § 2(a), 39 DCR 4054; Feb. 5, 1994, D.C. Law 10-68, § 19(a), 40 DCR 6311.)

**Section references.** — This section is referenced in § 8-1020, § 8-1021, and § 8-1022.

**Prior Codifications.** — 1981 Ed., § 6-3419.

**Legislative history of Law 8-208.** — Law 8-208, the "Paper and Paper Products Recycling Incentive Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-418, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on November 20, 1990, and December 4, 1990, respectively. Signed by

the Mayor on December 14, 1990, it was assigned Act No. 8-283 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-130.** — For legislative history of D.C. Law 9-130, see Historical and Statutory Notes following § 8-1022.01.

**Legislative history of Law 10-68.** — For legislative history of D.C. Law 10-68, see Historical and Statutory Notes following § 8-1003.

## § 8-1020. Minimum recycled content reporting requirements.

(a) Any corporation required to file a District annual report for foreign and domestic corporations shall indicate in its annual report whether the corporation is a seller or distributor of a paper or paper product with a per-issue circulation of more than 30,000 copies, an annual weight of more than 500 tons, or annual gross receipts that exceed \$100,000 in the District.

(b) Any person subject to § 8-1019 shall submit an annual report to the Office of Recycling that sets forth the amount and percentage of recycled content of any paper or paper product sold or distributed as required in § 8-1019.

(Mar. 16, 1989, D.C. Law 7-226, § 23, as added Mar. 6, 1991, D.C. Law 8-208, § 2, 37 DCR 8458.)

**Section references.** — This section is referenced in § 8-1019 and § 8-1022.01.

**Prior Codifications.** — 1981 Ed., § 6-3420.

**Legislative history of Law 8-208.** — For legislative history of D.C. Law 8-208, see Historical and Statutory Notes following § 8-1019.

## § 8-1021. Application for exemption and hearing procedure.

(a) Any person may apply for an exemption from the minimum recycled content requirements of § 8-1019 when the person files the annual report with the Office of Recycling. The application shall include a written certification to the Office of Recycling regarding the reasons the person is unable to obtain a sufficient amount of paper or paper products for sale or distribution that contain the required percentage of recycled material at the competitive price. Any certification shall include the name and address of any producer of recycled paper that the seller or distributor has contacted, and indicate the variance from the recycled content requirement. For the purposes of this section, the term “competitive” means a price within 10% of the price of items that are manufactured or produced from virgin material. Any paper or paper product found exempt from the requirements of § 8-1019 shall not exempt the person from compliance with the minimum content requirements for any other paper or paper product subject to § 8-1019. An application shall be approved if the Office of Recycling determines that the person has taken all reasonable steps to contract with each producer who manufactures paper or paper products that contain the required percentage of recycled material.

(b) The Office of Recycling shall, consistent with § 2-505, before an application for an exemption is approved or denied, publish in the District of Columbia Register notice of the intended action to afford interested persons an opportunity for written comment. If at least 25 residents of the District petition the Office of Recycling for a public hearing, the Office of Recycling shall conduct a public hearing pursuant to rules issued in accordance with § 8-1023.

(c) Within 90 days after any written comments have been received or a public hearing has been conducted, whichever is later, the Office of Recycling shall publish a final decision in the District of Columbia Register, including findings of fact and conclusions of law, regarding the approval or denial of an application for an exemption.

(d) Within 30 days after a final decision is published as set forth in subsection (c) of this section, any interested person may file a written petition for judicial review in the District of Columbia Court of Appeals consistent with § 2-510.

(e) The District of Columbia Court of Appeals may award reasonable attorney’s fees and court costs to a prevailing party who appeals the approval or intervenes to defend denial of an exemption under this section.

(Mar. 16, 1989, D.C. Law 7-226, § 24, as added Mar. 6, 1991, D.C. Law 8-208, § 2, 37 DCR 8458.)

**Section references.** — This section is referenced in § 8-1022.

**Prior Codifications.** — 1981 Ed., § 6-3421.

**Legislative history of Law 8-208.** — For legislative history of D.C. Law 8-208, see Historical and Statutory Notes following § 8-1019.

**§ 8-1022. Minimum recycled content surcharge.**

(a) Subject to § 8-1019(g) and subsection (a-1) of this section, beginning in calendar year 1994, and annually thereafter, any person who fails to comply with § 8-1019 and who is not exempt under § 8-1021 shall be subject to a recycling surcharge. The recycling surcharge shall be paid by the person to the Department of Public Works before February 15, 1995, and annually thereafter, for the preceding calendar year if the aggregate tonnage of a paper or paper product sold or distributed for the reporting period contains less than the percentage of recycled content required under § 8-1019(c). If the aggregate percentage of recycled content is less than the percentage required in § 8-1019(c), the amount of the surcharge shall be 15% of the price paid for the paper or paper product sold or distributed during the reporting period that falls below the required percentage of recycled content.

(a-1)(1) For newsprint, the amount of the recycling surcharge shall be \$10 per ton for the amount of newsprint that falls below the required percentage of recycled content.

(2) The recycling surcharge for newsprint shall apply to each person subject to this section only with regard to any year in which the recycled content percentages required by this section shall be measured on a non-aggregate basis in accordance with § 8-1019(g).

(b) Revenue generated from the recycling surcharge shall be used to fund recycling activities in the District in accordance with § 8-1015.

(Mar. 16, 1989, D.C. Law 7-226, § 25, as added Mar. 6, 1991, D.C. Law 8-208, § 2, 37 DCR 8458; July 22, 1992, D.C. Law 9-130, § 2(b), 39 DCR 4054.)

**Prior Codifications.** — 1981 Ed., § 6-3422.

**Legislative history of Law 8-208.** — For legislative history of D.C. Law 8-208, see Historical and Statutory Notes following § 8-1019.

**Legislative history of Law 9-130.** — For legislative history of D.C. Law 9-130, see Historical and Statutory Notes following § 8-1022.01.

**§ 8-1022.01. Establishment of a Recycled Newspaper Fiber Content Advisory Task Force.**

(a) There is established a Recycled Newspaper Fiber Content Advisory Task Force ("task force").

(b) The task force shall advise the Department of Public Works with respect to the statutory requirements for the use of recycled newsprint.

(c) The task force shall convene during the 1st quarter of 1994 and will issue its report by the 3rd quarter of 1994.

(d) The composition of the task force shall be 7 members appointed by the Mayor, as follows:

(1) The Director of the Department of Public Works who shall be the Chair;

(2) 2 representatives of newspaper publishers;

(3) 2 representatives of environmental groups with expertise in recycling;

(4) 1 representative of the recycled newsprint industry; and

(5) 1 representative of an industry, other than newsprint, that uses old newspapers.



(e) The task force shall perform the following responsibilities:

(1) Review the reports filed under § 8-1020;

(2) Consider the following:

(A) Extent of recovery of old newspapers from the District's waste stream;

(B) Cost to the District to recover and market old newspapers;

(C) Availability and utilization in the District of newsprint containing recycled material; and

(D) Nature and extent of other recycling uses for old newspapers; and

(3) In accordance with paragraph (2) of this subsection, the task force may comment on whether a recycled newsprint law is necessary, and if so, whether the recycled content percentage requirement for newsprint should remain the same or be adjusted. The task force may also consider whether the recycled content requirement encourages manufacturers of virgin newsprint to convert to recycling and whether the requirement adversely affects recycling uses for old newspapers other than the production of newsprint.

(Mar. 16, 1989, D.C. Law 7-226, § 25a, as added July 22, 1992, D.C. Law 9-130, § 2(c), 39 DCR 4054.)

**Prior Codifications.** — 1981 Ed., § 6-3422.1.

**Legislative history of Law 9-130.** — Law 9-130, the "Newsprint Recycling Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-291, which was referred to the Committee on Public Works. The Bill was

adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Signed by the Mayor on May 28, 1992, it was assigned Act No. 9-215 and transmitted to both Houses of Congress for its review. D.C. Law 9-130 became effective on July 22, 1992.

## § 8-1023. Minimum recycled content rules.

(a) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue proposed rules to implement the provisions of the Newsprint Recycling Amendment Act of 1992 that apply to paper and paper products, other than newsprint, by January 1, 1993.

(b) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue proposed rules within 180 days of July 22, 1992, to implement the newsprint provisions of this subchapter.

(c) The proposed rules shall be submitted to the Council for a 45-day period of review excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 5 of Title 2.

(Mar. 16, 1989, D.C. Law 7-226, § 26, as added Mar. 6, 1991, D.C. Law 8-208, § 2, 37 DCR 8458; July 22, 1992, D.C. Law 9-130, § 2(b), 39 DCR 4054; Feb. 5, 1994, D.C. Law 10-68, § 19(c), 40 DCR 6311.)

**Section references.** — This section is referenced in § 8-1021.

**Prior Codifications.** — 1981 Ed., § 6-3423.

**Legislative history of Law 8-208.** — For legislative history of D.C. Law 8-208, see Historical and Statutory Notes following § 8-1019.

**Legislative history of Law 9-130.** — For legislative history of D.C. Law 9-130, see Historical and Statutory Notes following § 8-1022.01.

**Legislative history of Law 10-68.** — For

legislative history of D.C. Law 10-68, see Historical and Statutory Notes following § 8-1003.

**References in text.** — The “Newsprint Recycling Amendment Act of 1992,” referred to in (a), is D.C. Law 9-130.

## *Subchapter II. Solid Waste Facility Permits.*

### § 8-1051. Definitions.

For the purpose of this subchapter, the term:

(1) “Composting facility” means any location or structure which uses a microbial process to convert organic material, including wood, paper, mulch, or yard or food waste into a soil amendment.

(2) “Construction and demolition wastes” means the waste building materials and rubble resulting from construction, remodeling, repair, and demolition operation on houses, commercial buildings, pavements, and other structures.

(3) “Existing solid waste facility” means a solid waste facility in construction, including site preparation, or operating on March 23, 1995.

(4) “Final disposal” means depositing or placing solid waste for its final location.

(5) “Intermediate materials recycling facility” means a fully enclosed structure used for the receipt, separation, storage, conversion, baling, briquetting, crushing, compacting, grinding, shredding, or processing of paper, metal, glass, plastics, tires, bulk waste, or other nonbiodegradable recyclable materials for the purpose of reutilization of such materials. The term “intermediate materials recycling facility” shall not include a facility used for the storage or processing of biodegradable materials, construction and demolition wastes, white goods, and hazardous substances, as defined in § 8-109.02(4), and the rules and regulations pursuant thereto.

(6) “Open solid waste facility” means any privately owned or operated solid waste disposal or solid waste handling facility where solid waste is stored or processed outside of a fully enclosed building or structure.

(7) “Person” means any individual, partnership, corporation, trust, association, firm, joint stock company, organization, commission, or any other private entity.

(8) “Recyclable material” means material which would otherwise become solid waste, and that may be collected, separated, or processed and returned to the economic mainstream as a raw material or product.

(9) “Residue” means the solid waste, as measured by weight, requiring disposal after recyclable material is removed during or after processing.

(10) “Solid waste” means garbage, refuse, construction and demolition waste or any other waste product, including solid, liquid, semisolid, or contained gaseous material, resulting from commercial, industrial, or government operation, or residential or community activity.

(11) “Solid waste disposal facility” means any facility where solid waste is discharged, deposited, tipped, dumped, or placed for final disposal, including an incinerator, waste-to-energy facility, rubble fill, or landfill.



(12) "Solid waste facility" means any privately owned or operated solid waste disposal facility or solid waste handling facility, which accepts solid waste that is not the incidental by-product of the facility's manufacturing or operational processes.

(13) "Solid waste handling facility" means any facility where solid waste temporarily is deposited, or placed for processing, at any time prior to its final disposal at a solid waste disposal facility.

(14) "Source separated" means the end result when recyclable material is separated from solid waste at its point of origin for separate collection and processing.

(15) "Substantially alter" means to make any physical modification to a solid waste facility which increases or decreases the solid waste facility's maximum annual capacity, by more than 10% per year, as indicated in the solid waste facility's solid waste facility permit, or in any way alters or modifies the method by which the waste is processed or disposed, or which increases the amount of any air pollutant not previously emitted.

(16) "Abate" means to control disease vectors including rats and other vermin.

(17) "Arterial road" means a traffic route of 4 or more lanes with traffic controlled by traffic signal lights.

(18) "Best Available Control Technology" or "BACT" means measures, processes, methods, systems, or techniques to contain the emission of odors and air and liquid pollutants through procedures including enclosing processes or systems to eliminate emissions, and by collecting, capturing or treating pollutants before release from a process, stack, storage or fugitive emissions point.

(19) "Facility" means any building, structure, or portion of a site where solid waste is handled or stored.

(20) "Hazardous waste" means any waste defined as hazardous in § 8-1302(2).

(21) "Infectious waste" shall include, but is not limited to, the following types of solid waste:

(A) Cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures;

(B) Pathological wastes, including tissues, organs, and body parts that are removed during surgery or autopsy;

(C) Waste human blood and products of blood, including serum, plasma, and other blood components;

(D) Sharps that have been used in patient care or in medical, research, or industrial laboratories, including hypodermic needles, syringes, pasteur pipettes, broken glass, and scalpel blades;

(E) Contaminated animal carcasses, body parts, and bedding of animals that were exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals;



(F) Wastes from surgery or autopsy that were in contact with infectious agents, including soiled dressings, sponges, drapes, lavage tubes, drainage sets, underpads, and surgical gloves;

(G) Laboratory wastes from medical, pathological, pharmaceutical, or other research, commercial, or industrial laboratories that were in contact with infectious agents, including slides and cover slips, disposable gloves, laboratory coats and aprons;

(H) Dialysis wastes that were in contact with the blood of patients undergoing hemodialysis, including contaminated disposable equipment and supplies such as tubing, filters, disposable sheets, towels, gloves, aprons, and laboratory coats;

(I) Discarded medical equipment and parts that were in contact with infectious agents;

(J) Biological waste and discarded materials contaminated with blood, excretion, exudates or secretion from human beings or animals who are isolated to protect others from communicable diseases; and

(K) Any other waste material that results from the administration of medical care to a patient by a health care provider and is found by the Department of Health to pose a threat to human health or the environment.

(22) "Operations area" means any area where solid waste handling or related activities including storage, heavy equipment operations, truck idling, covering, uncovering, cleaning, queuing or parking occurs.

(23) "Radioactive hazardous waste" means any waste which contains or is contaminated with low level radioactive waste material emitting primarily gamma or beta radiation registering above normal background levels.

(24) "Residential street" means any street on which 50% or more of the street frontage is used for residential purposes, for residential and non-business property, or is zoned as residential property. The designation of a street as a residential street shall be determined block-by-block.

(25) "Site" means the total area of any lot or lots that are partially or completely occupied by a solid waste handling facility or its operations area or any lot or lots owned or leased by the owner or operator of a solid waste handling facility that are adjacent to a lot or lots that are partially or completely devoted to solid waste handling operations.

(26) "Tracking" means the deposit of a trail of liquid, liquid waste, muck, dust or of any garbage on public space by vehicles entering and exiting solid waste facilities.

(Feb. 27, 1996, D.C. Law 11-94, § 2, 42 DCR 7172; June 11, 1999, D.C. Law 12-286, § 2(a), 46 DCR 3435.)

**Section references.** — This section is referenced in § 8-105.02.

**Prior Codifications.** — 1981 Ed., § 6-3451.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Solid Waste Facility Permit Temporary Amendment Act of 1998 (D.C. Law 12-120, June 11, 1998, law notification 45 DCR 4037).

**Temporary Addition of Section.** — For

temporary (225 day) addition of subchapter, see §§ 2 to 11 of Solid Waste Facility Permit Temporary Act of 1994 (D.C. Law 10-251, March 23, 1995, law notification 42 DCR 1650).

For temporary (225 day) addition of subchapter, see §§ 2 to 11 of Solid Waste Facility Permit Temporary Act of 1995 (D.C. Law 11-80, February 6, 1996, law notification 43 DCR 776).

**Emergency legislation.** — For temporary

addition of subchapter, see §§ 2-11 of the Solid Waste Facility Permit Emergency Act of 1994 (D.C. Act 10-384, December 28, 1994, 42 DCR 45).

For temporary addition of subchapter, see §§ 2 through 11 of the Solid Waste Facility Permit Emergency Act of 1995 (D.C. Act 11-144, October 23, 1995, 42 DCR 6038).

For temporary amendment of section, see § 2(a) and (b) of the Solid Waste Facility Permit Emergency Amendment Act of 1998 (D.C. Act 12-296, March 4, 1998, 45 DCR 1769), and § 2(a) of the Solid Waste Facility Permit Second Emergency Amendment Act of 1998 (D.C. Act 12-623, February 1, 1999, 45 DCR 1364).

**Legislative history of Law 11-94.** — Law 11-94, the “Solid Waste Facility Permit Act of 1995,” was introduced in Council and assigned Bill No. 11-036, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on November 7, 1995, and December 5, 1995, respectively. Signed by the Mayor on December 18, 1995, it was assigned Act No.

11-177 and transmitted to both Houses of Congress for its review. D.C. Law 11-94 became effective on February 27, 1996.

**Legislative history of Law 12-286.** — Law 12-286, the “Solid Waste Facility Permit Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-582, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Vetoed by the Mayor on December 24, 1998, the Council overrode the veto on Jan. 5, 1999; it was assigned Act No. 12-624 and transmitted to both Houses of Congress for its review. D.C. Law 12-286 became effective on June 11, 1999.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 10-251, the “Solid Waste Facility Permit Temporary Act of 1994,” see Mayor’s Order 95-754, May 19, 1995.

Delegation of authority pursuant to D.C. Law 11-94, the “District of Columbia Solid Waste Facility Permit Act of 1995,” see Mayor’s Order 98-53, April 15, 1998 (45 DCR 2700).

## LAW REVIEWS AND JOURNAL COMMENTARIES

Untying the Hands of D.C. : Ways to Avoid Constitutional Conflicts While Addressing

Solid Waste Disposal. Janell De Gennaro, 7 U.D.C.L.Rev. 47 (2003).

## § 8-1052. Open solid waste facilities prohibited.

No person shall operate an open solid waste facility in the District.

(Feb. 27, 1996, D.C. Law 11-94, § 3, 42 DCR 7172.)

**Prior Codifications.** — 1981 Ed., § 6-3452.

**Temporary Addition of Section.** — See Historical and Statutory Notes following § 8-1051.

**Legislative history of Law 11-94.** — For legislative history of D.C. Law 11-94, see Historical and Statutory Notes following § 8-1051.

## § 8-1053. Permits required.

(a) No person shall construct or operate a solid waste facility in the District of Columbia which accepts solid waste for a fee except in accordance with a solid waste facility permit issued for that solid waste facility by the Mayor.

(b)(1) An existing solid waste facility shall cease construction, including site preparation or operation, by June 30, 1995, unless the Mayor has issued an interim operating permit for the facility pursuant to paragraph (2) of this subsection.

(2)(A) Except as provided in subparagraph (B) of this paragraph, the Mayor may issue an interim operating permit with terms and conditions of operation for an existing solid waste facility if the Mayor has received a completed solid waste facility permit application for that facility by June 30, 1995, and the payment of an initial permit fee of \$10,000.

(B) The Mayor may issue an interim operating permit with terms and conditions of operation for an existing solid waste facility that receives and



processes construction and demolition waste exclusively if the Mayor has received a completed solid waste facility permit application for that facility by March 1, 1996, and the payment of an initial permit fee of \$10,000.

(3) An interim operating permit shall be valid until such time as a final disposition of the solid waste facility permit application has been made by the Mayor, unless the final disposition of the application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

(4) In addition to any other remedies available at law or equity, the Mayor may immediately suspend or revoke an interim operating permit and order closure of the solid waste facility if the Mayor finds that the facility is operating (i) in violation of its interim operating permit; (ii) in violation of health, safety, environmental, and zoning laws, rules, and regulations, including such rules and regulations as may be issued by the Mayor pertaining to solid waste facilities operating under interim operating permits; (iii) in a manner that endangers human health, the public welfare, or the environment; or (iv) after failure of the applicant to furnish information reasonably required or requested in order to process the application.

(c) A solid waste facility shall not be substantially altered unless the Mayor has given prior approval for the alteration by issuing to the solid waste facility a modification of the solid waste facility's existing permit and payment of the modification application fee by the applicant.

(d) An existing solid waste facility, while operating under an interim operating permit, shall not be substantially altered except as expressly authorized by the Mayor.

(e)(1) The Mayor may issue a solid waste facility permit with terms and conditions of operation after the Mayor has received a completed solid waste facility permit application and made a final disposition of the solid waste facility permit application.

(2)(A) The Mayor may, in accordance with standards to be established by regulation, issue, renew, suspend, revoke, or deny a solid waste facility permit, and determine, vary or modify its terms and conditions.

(B) The Mayor shall revoke or suspend a solid waste facility permit if the Mayor, after a hearing, determines that the solid waste facility is a public nuisance.

(C) No solid waste facility permit shall be issued or renewed until the Mayor has determined that the solid waste facility is operating, or will operate, in full compliance with environmental, health, safety, and zoning laws, rules, and regulations and that the solid waste facility will not endanger public health, safety, welfare, or the environment. A contrary determination shall allow the Mayor to order closure of an existing facility. In addition, a determination that an existing solid waste facility is a public nuisance shall allow the Mayor to order the closure of the facility.

(f) Permits issued under subsection (e) of this section shall be valid for a period not to exceed 3 years from the date of issuance.

(g) Each permit issued under this section shall be limited to one site and one person and shall not be transferable to another site, facility, or person.



(h) No permit shall be required under this section for the following:

(1) An intermediate materials recycling facility which produces no more than an average monthly residue of 20%;

(2) A composting facility;

(3) The temporary storage of sand, salt, milled asphalt, dirt, street sweepings, or other nonputrescible material resulting from a municipal operation; or

(4) The storage of hazardous waste as the term is defined in § 8-1302(2).

(i) Nothing in this section shall relieve any person of the obligation to construct and operate a solid waste facility in full compliance with any applicable laws, rules, or regulations, including those pertaining to nuisances, health, safety, environment, and zoning.

(j) Licenses or permits issued under this section shall be issued as an Environmental Materials endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(Feb. 27, 1996, D.C. Law 11-94, § 4, 42 DCR 7172; Apr. 20, 1999, D.C. Law 12-261, § 2003(m)(1), 46 DCR 3142; July 17, 1999, D.C. Law 13-15, § 2(a), 46 DCR 4462; Oct. 28, 2003, D.C. Law 15-38, § 3(l)(1), 50 DCR 6913.)

**Cross references.** — Actions not requiring EIS, see § 8-109.06.

**Section references.** — This section is referenced in § 8-109.06 and § 8-1054.

**Prior Codifications.** — 1981 Ed., § 6-3453.

**Effect of amendments.** — D.C. Law 13-15 rewrote par. (e)(2), which previously read:

“The Mayor may, in accordance with standards to be established by regulation, issue, renew, suspend, revoke, or deny a solid waste facility permit, and determine, vary, or modify its terms and conditions. No solid waste facility permit shall be issued or renewed until the Mayor has determined that the solid waste facility is operating, or will operate, in full compliance with environmental, health, safety, and zoning laws, rules, and regulations and that the solid waste facility will not endanger human health, the public welfare, or the environment. A contrary determination shall allow the Mayor to order closure of an existing facility.”

D.C. Law 15-38, in subsec. (j), substituted “an Environmental Materials endorsement to a basic business license under the basic” for “a Class A Environmental Materials endorsement to a master business license under the master”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 4 of Emergency Assistance Clarification Temporary Amendment Act of 1995 (D.C. Law 11-24, July 14, 1995, law notification 42 DCR 3830).

**Temporary Addition of Section.** — See Historical and Statutory Notes following § 8-1051.

**Emergency legislation.** — For temporary amendment of this section, see § 4 of the Emergency Assistance Clarification Emergency Amendment Act of 1995 (D.C. Act 11-36, April 11, 1995, 42 DCR 1839) and § 4 of the Emergency Assistance Clarification Congressional Recess Emergency Amendment Act of 1995 (D.C. Act 11-105, July 21, 1995, 42 DCR 4019).

For temporary (90 day) amendment of section, see § 3(l)(1) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 11-94.** — For legislative history of D.C. Law 11-94, see Historical and Statutory Notes following § 8-1051.

**Legislative history of Law 12-261.** — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

**Legislative history of Law 13-15.** — Law 13-15, the “Solid Waste Facility Permit Amendment Act of 1999,” was introduced in Council and assigned Bill No. 13-30, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on March 2, 1999,

and April 13, 1999, respectively. Signed by the Mayor on May 3, 1999, it was assigned Act No. 13-64 and transmitted to both Houses of Congress for its review. D.C. Law 13-15 became effective on July

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 11-80, the

“Solid Waste Facility Permit Temporary Act of 1995.”, see Mayor’s Order 96-31, March 8, 1996 (43 DCR 1381).

Delegation of authority pursuant to D.C. Law 11-94, the “Solid Waste Facility Permit Act of 1995.”, see Mayor’s Order 96-51, April 12, 1996 (43 DCR 2448).

## § 8-1054. Application for permits.

(a) Applications for solid waste facility permits and permit modifications shall be submitted to the Mayor in the form prescribed by regulation and shall include all information as the Mayor may reasonably require.

(b) The application fees for permits to operate solid waste facilities shall be as follows:

(1) Initial permit — \$10,000;

(2) Renewal permit — \$9,000; and

(3) Modification permit for substantial alterations — \$1,000.

(c) The payment under subsection (b)(1) of this section shall be waived if already paid pursuant to § 8-1053(b)(2).

(d) If the Mayor denies the issuance of a solid waste facility permit pursuant to § 8-1053(e), \$9,000 shall be refunded to the applicant.

(e) The Mayor may, by rulemaking, revise the application fees as necessary to recover the administrative costs associated with the review of applications for solid waste facility permits and interim operating permits, the review of annual reports, the inspection of facilities, and all other activities associated with the administration and enforcement of this subchapter. Subject to the enactment of appropriations, solid waste facility application fees shall be used to offset the cost of reviewing and processing solid waste facility applications and monitoring facility compliance with the requirements of this subchapter and the terms and conditions of the solid waste facility permit.

(f) Any license issued pursuant to this section shall be issued as an Environmental Materials endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(Feb. 27, 1996, D.C. Law 11-94, § 5, 42 DCR 7172; Apr. 9, 1997, D.C. Law 11-255, § 16, 44 DCR 1271; Apr. 20, 1999, D.C. Law 12-261, § 2003(m)(2), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(l)(2), 50 DCR 6913; Apr. 13, 2005, D.C. Law 15-354, § 83(b), 52 DCR 2638.)

**Prior Codifications.** — 1981 Ed., § 6-3454.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (f), substituted “an Environmental Materials endorsement to a basic business license under the basic” for “a Class A Environmental Services endorsement to a master business license under the master”.

D.C. Law 15-354, in subsec. (f), validated a previously made technical correction.

**Emergency legislation.** — For temporary

(90 day) amendment of section, see § 3(l)(2) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 11-94.** — For legislative history of D.C. Law 11-94, see Historical and Statutory Notes following § 8-1051.

**Legislative history of Law 11-255.** — For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 8-1015.



**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 8-1053.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 8-111.03.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 8-103.06.

**Editor's notes.** — Temporary addition of subchapter: See Historical and Statutory Notes following § 8-1051.

## § 8-1055. Reporting and operating requirements.

(a) Owners and operators of solid waste facilities subject to the provisions of this subchapter shall submit periodic reports to the Mayor at the times specified by regulation. The reports shall contain all information the Mayor considers reasonably necessary to determine compliance with this subchapter. Records necessary to comply with this reporting requirement shall be maintained in a central location at each solid waste facility for a period of time prescribed by the Mayor. The Mayor may provide by rulemaking that failure to submit periodic reports or maintain records may result in the imposition of a fine of up to \$25,000, suspension or revocation of a solid waste facility permit, or both.

(b) The information contained in the periodic reports and the application shall be considered proprietary and held confidential by the District.

(c) All new and existing solid waste facilities holding interim and permanent operating permits pursuant to this subchapter shall comply with the following operating and reporting requirements and prohibitions:

(1) Within six months from the effective date of the Solid Waste Facility Permit Amendment Act of 1998 each solid waste facility shall develop a traffic flow plan showing the routes used by inbound and outbound vehicles to the facility from the nearest arterial roads and any other arterial roads used by inbound or outbound vehicles. If the facility is located on an arterial road, the traffic flow plan shall encompass an area of no less than four blocks from the solid waste facility in any direction.

(2) No solid waste facility permit shall be issued until the traffic control plan has been assessed and approved by the Department of Public Works, which may set reasonable criteria for each plan as it deems necessary. Each solid waste facility shall submit traffic flow plans to the Department of Public Works. Each facility shall provide notice in the District of Columbia Register, of its traffic flow plan to each Advisory Neighborhood Commission ("ANC") adjacent to the ANC in which the solid waste facility is operating and through which any of the inbound or outbound vehicles pass through for comment, publish the plan in a newspaper of general circulation in the District of Columbia and post the complete plan at the solid waste facility for public review. ANC comments must be submitted no later than 45 days after publication. A copy of any study, survey, professional opinion, or other materials relied upon by a solid waste facility in developing or submitting a traffic flow plan shall be provided to any requesting ANC.

(3) The traffic flow plan shall be designed to maximize use of truck routes or other arterial traffic routes of 4 or more lanes and to minimize truck traffic on residential streets or through residential areas. The plan shall include, at a minimum, a map designating the proposed travel routes for all trucks traveling to and from the facility and a plan for enforcement of the traffic flow



plan by the facility. Inbound vehicles shall use arterial roads except when collecting waste. Outbound vehicles shall only use arterial or heavier roads, except for roads identified and approved in a facility's traffic flow plan. The traffic flow plan shall be implemented immediately upon approval by the Department of Public Works.

(4) Tracking by vehicles entering or exiting solid waste facilities on public space is prohibited. The emission of dust and odors onto public space or adjoining private or personal property from solid waste facilities is prohibited.

(5) Each solid waste facility shall clean the streets immediately adjacent to the facility and those streets designated as proposed travel routes in its traffic flow plan at least once a week as needed with mechanical street sweeping equipment. The waste collected from the street sweeping equipment shall be transported to a licensed land field.

(6) Solid waste facilities shall install an entry and exit system, using BACT, as soon as practicable, but no later than 180 days from the effective date of the Solid Waste Facility Permit Amendment Act of 1998, to prevent dust and odors from escaping from the facility and to prevent animals and disease vectors from entering or exiting the facility. Truck doors or bays to the facility shall remain closed except when a vehicle is entering or exiting the facility.

(7) Each solid waste facility shall establish and maintain clean, waste-free paths within the facility pursuant to BACT. All trucks or other vehicles that use public roads must remain on those waste-free paths while within the facility.

(8) Each solid waste facility shall maintain a tire cleaning area near the exit to the facility. The tire cleaning area shall be designed to employ BACT standards. All waste water used in the facility shall be directed to a treatment area within the facility or to a municipal water treatment plant. Any waste water directed to a municipal water treatment plant shall conform with all applicable local and federal pre-treatment standards. The tires of trucks or other facility vehicles that use public roads shall be cleaned in the tire cleaning area before the trucks or other vehicles may exit the facility.

(9) Each existing solid waste facility shall continuously abate for disease vectors within a 4 block radius of the site, or demonstrate to the satisfaction of the Department of Health, Environmental Health Administration and the Department of Consumer and Regulatory Affairs that the facility is not providing vector harborage. The owner or operator of the solid waste facility shall provide reasonable notice to the community and seek permission to conduct abatement activities on all private properties within the 4 block radius before commencing abatement. Bait and traps shall not be placed on private property without the consent of the owner or occupant of the property. Bait and traps shall not be placed in open areas that are accessible to children or pets. Abatement shall be conducted according to environmental standards and safety protocols used by the Office of Rodent Control of the Department of Public Works.

(10) Each solid waste facility shall comply with the ventilation requirements established in 21 DCMR § 731.15(d)(6).

(11) Solid waste facilities shall not operate between the hours of 7:00 P.M. and 6:00 A.M.

(12) A solid waste facility shall not accept infectious, hazardous or radioactive waste and shall post signs warning persons entering the site that infectious, hazardous and radioactive waste is not permitted on the site. Each facility shall be required to install and maintain, in good working order, equipment capable of detecting radioactive waste. Any waste that enters a facility and triggers radiation detection equipment shall be prevented from leaving the facility or dumping waste at the facility.

(13) Each shipment of waste received by a solid waste handling facility shall be accompanied by a written manifest which shall contain:

- (A) The date and time when the shipment arrived at the facility;
- (B) The name and address of the transporter;
- (C) A description of the types of waste in the shipment;
- (D) The amount of waste received in the shipment;
- (E) The name and address of each broker or customer who arranged or contracted for the transportation or disposal of waste in the shipment;
- (F) The tag and registration number of each truck used to transport the shipment to and from the facility;
- (G) The name and location of the final disposal facility to which the waste in the shipment will be directed;
- (H) The date and time when the shipment departs the facility; and
- (I) A certification by both the transporter and the owner or operator of the solid waste facility that no hazardous, infectious or radioactive hazardous waste was knowingly introduced by them into the facility.

(14) The solid waste handling facility shall provide a monthly summary of the information contained in the manifests to the Department of Health and shall maintain copies of these manifests and make them available for inspection for a minimum of one year after the waste was received at facility.

(15) Each solid waste facility shall develop an inspection, monitoring, and control plan to detect and prevent the handling of hazardous wastes, infectious wastes or radioactive wastes and shall submit that plan to the Department of Health for review and approval. The plan must include, at a minimum:

- (A) Random inspections of incoming shipments;
- (B) Inspection of suspicious shipments;
- (C) Records of inspections, which must be maintained at the solid waste facility for a minimum of one year;
- (D) Training of facility personnel to recognize illegal materials or suspicious shipments;
- (E) Installation of radiation monitoring devices to screen all incoming shipments for radioactive activity higher than normal background levels; and
- (F) Provision for proper disposal or treatment of hazardous, infectious or radioactive wastes at licensed off-site facilities.

(16) The solid waste facility shall immediately notify the Department of Health and shall detain the shipment to allow for inspection by the Department of Health, if incoming shipments are found to contain hazardous, infectious or radioactive hazardous wastes. The shipment shall be secured to prevent access by unauthorized personnel, isolated from the main waste handling areas, and held in a manner to protect it from the elements, vermin,



or other disease vectors and to prevent it from contaminating the solid waste handling facility or the surrounding community.

(17) The solid waste facility shall dispose of the hazardous, infectious or radioactive hazardous waste or shall direct the transporter to dispose of the wastes as outlined in its inspection, monitoring and control plan or as otherwise ordered by the Department of Health, immediately after inspection by the Department of Health or notification that it will not inspect the shipment. In no event shall the hazardous, infectious or radioactive hazardous waste remain on site for more than 24 hours.

(18) The solid waste facility shall provide a summary of its inspection activities in monthly reports to the Department of Health. These reports shall:

(A) Include the number of shipments received and the number of inspections conducted during the previous month;

(B) Identify by date and manifest number all shipments which were detained as a result of these inspections;

(C) Provide the reason for detention of any shipment;

(D) Identify the final disposal site for each detained shipment; and

(E) Provide a copy of the manifest for each detained shipment, including the names and addresses of the transporter of the detained shipment and all brokers or customers who arranged for the transportation or disposal of waste in the detained shipment.

(Feb. 27, 1996, D.C. Law 11-94, § 6, 42 DCR 7172; June 11, 1999, D.C. Law 12-286, § 2(b), 46 DCR 3435.)

**Section references.** — This section is referenced in § 8-1057.

**Prior Codifications.** — 1981 Ed., § 6-3455.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(c) of Solid Waste Facility Permit Temporary Amendment Act of 1998 (D.C. Law 12-120, June 11, 1998, law notification 45 DCR 4037).

**Temporary Addition of Section.** — See Historical and Statutory Notes following § 8-1051.

**Emergency legislation.** — For temporary amendment of section, see § 2(c) of the Solid Waste Facility Permit Emergency Amendment Act of 1998 (D.C. Act 12-296, March 4, 1998, 45 DCR 1769).

**Legislative history of Law 11-94.** — For legislative history of D.C. Law 11-94, see Historical and Statutory Notes following § 8-1051.

**Legislative history of Law 12-286.** — For legislative history of D.C. Law 12-286, see Historical and Statutory Notes following § 8-1051.

## § 8-1056. Inspections.

The Mayor shall have the right to randomly and periodically inspect any solid waste facility located in the District, and all records, documents, or data compilations retained by the solid waste facility, for the purpose of ensuring compliance with this subchapter. Inspections shall generally take place while the solid waste facility is in operation.

(Feb. 27, 1996, D.C. Law 11-94, § 7, 42 DCR 7172.)

**Prior Codifications.** — 1981 Ed., § 6-3456.

**Temporary Addition of Section.** — See Historical and Statutory Notes following § 8-1051.

**Legislative history of Law 11-94.** — For legislative history of D.C. Law 11-94, see Historical and Statutory Notes following § 8-1051.



## § 8-1057. Solid waste facility charge.

(a) In addition to the solid waste facility application fee for a permit, a person shall pay a solid waste facility charge for operating a solid waste facility in the District. The solid waste facility charge shall be based upon the actual tonnage of solid waste deposited at the solid waste facility, as indicated in the periodic report.

(b)(1) Except as provided in subsection (c) of this section, the solid waste facility charge shall be determined by multiplying the actual tonnage of solid waste deposited or placed at the solid waste facility by \$4 per ton. The person shall pay the annual facility charge in conjunction with the submittal of periodic reports required by § 8-1055.

(2) If an applicant has already paid an annual solid waste facility charge of \$10 per ton pursuant to section 8(b) of the Solid Waste Facility Permit Temporary Act of 1994, effective March 23, 1995 (D.C. Law 10-251; 42 DCR 520) ("Temporary Act of 1994"), the person may deduct from the first solid waste facility charge due after October 23, 1995, an amount equal to \$6 per ton for any annual solid waste facility charge paid under the Temporary Act of 1994.

(c) Any solid waste facility which receives and processes construction and demolition wastes exclusively shall pay a solid waste facility charge which shall be determined by multiplying the actual tonnage of construction and demolition material deposited or placed at the solid waste facility by \$2 per ton. The person shall pay the solid waste facility charge in conjunction with the submittal of periodic reports required by § 8-1055.

(d) The Mayor may revise the solid waste facility charge as necessary to offset the cost of developing new and additional methods of solid waste management and to fund recycling activities of the District to enforce the provisions of this subchapter.

(e) The Mayor shall suspend a solid waste facility operating permit and close the solid waste facility if the person fails to pay the solid waste facility charge within 10 calendar days of the due date. The Mayor shall keep the solid waste facility closed until all charges due the District are paid in full, including payment of a penalty equal to 1% per month for any unpaid balance.

(f) Subject to the enactment of appropriations, revenues collected from the payment of the solid waste facility charge shall be used to fund recycling activities in accordance with § 8-1015. Not more than 20% of the solid waste facility charge shall be made available to the agency responsible for the enforcement of the requirements of this subchapter.

(Feb. 27, 1996, D.C. Law 11-94, § 8, 42 DCR 7172; June 11, 1999, D.C. Law 12-286, § 2(c), 46 DCR 3435.)

**Prior Codifications.** — 1981 Ed., § 6-3457.

**Temporary Addition of Section.** — See Historical and Statutory Notes following § 8-1051.

**Legislative history of Law 11-94.** — For

legislative history of D.C. Law 11-94, see Historical and Statutory Notes following § 8-1051.

**Legislative history of Law 12-286.** — For legislative history of D.C. Law 12-286, see Historical and Statutory Notes following § 8-1051.

CASE NOTES

ANALYSIS

Injunction.  
Jurisdiction.  
Nature of charge.  
Procedure.

**Injunction.**

Solid waste and recycling hauler would suffer "irreparable harm" absent grant of preliminary injunction in form of order modifying and extending temporary restraining order concerning solid waste facility charge which allegedly violated commerce clause, where 80% of hauler's business came from government contracts, and hauler's continued existence was at risk. *District of Columbia v. Eastern Trans-Waste of Md., Inc.*, 758 A.2d 1, 2000 D.C. App. LEXIS 192 (2000).

Balance of harm and public interest factors favored grant of preliminary injunction in form of order modifying and extending temporary restraining order concerning solid waste facility charge which allegedly violated commerce clause, in solid waste and recycling hauler's action against District of Columbia, where hauler faced losing its entire operations, and public interest would be served by preventing impermissible burdens on interstate commerce. *District of Columbia v. Eastern Trans-Waste of Md., Inc.*, 758 A.2d 1, 2000 D.C. App. LEXIS 192 (2000).

Preliminary injunction in form of order modifying and extending temporary restraining order concerning solid waste facility charge which allegedly violated commerce clause did not impermissibly prohibit District of Columbia from enforcing its zoning laws against solid waste and recycling hauler, where District's zoning laws were not mentioned in orders. *District of Columbia v. Eastern Trans-Waste of Md., Inc.*, 758 A.2d 1, 2000 D.C. App. LEXIS 192 (2000).

**Jurisdiction.**

Court of Appeals had jurisdiction to entertain interlocutory appeals of order modifying and extending temporary restraining order and granting partial summary judgment for solid waste and recycling hauler as to solid waste facility charge, in hauler's action against Dis-

trict of Columbia, seeking declaratory, injunctive, and other relief concerning application and enforcement of Solid Waste Facility Permit Act and Illegal Dumping Enforcement Act. *District of Columbia v. Eastern Trans-Waste of Md., Inc.*, 758 A.2d 1, 2000 D.C. App. LEXIS 192 (2000).

If solid waste facility charge imposed on solid waste and recycling hauler constituted a tax, and hauler had not paid the tax, Court of Appeals could assert jurisdiction under Anti-Injunction Act and equitable relief could be obtained against collection of tax only if following requirements were met: (1) a finding that under no circumstances could the Government ultimately prevail, and (2) that equity jurisdiction otherwise exists, that is, proof of irreparable injury and inadequacy of legal remedy. *District of Columbia v. Eastern Trans-Waste of Md., Inc.*, 758 A.2d 1, 2000 D.C. App. LEXIS 192 (2000).

**Nature of charge.**

Solid waste facility charge imposed on solid waste and recycling hauler constituted a "tax," rather than a "fee," where legislature enacted charge, and income from charge would benefit general public more than those who handled trash, recyclables, and solid waste. *District of Columbia v. Eastern Trans-Waste of Md., Inc.*, 758 A.2d 1, 2000 D.C. App. LEXIS 192 (2000).

**Procedure.**

Anti-Injunction Act did not bar Court of Appeals from considering constitutionality of solid waste facility charge, which was deemed to be a tax rather than a fee, in solid waste and recycling hauler's action against District of Columbia under Solid Waste Facility Permit Act and Illegal Dumping Enforcement Act, where District did not raise Anti-Injunction Act prior to the filing of District's responsive and reply brief, inclusion of charge as a tax subject to anti-injunction prohibition was, at best, at margin of Anti-Injunction Act and did not appear to implicate key concerns, and trial court granted hauler injunctive relief because of a finding that hauler would suffer irreparable harm. *District of Columbia v. Eastern Trans-Waste of Md., Inc.*, 758 A.2d 1, 2000 D.C. App. LEXIS 192 (2000).

LAW REVIEWS AND JOURNAL COMMENTARIES

Untying the Hands of D.C. : Ways to Avoid Constitutional Conflicts While Addressing

Solid Waste Disposal. Janell De Gennaro, 7 U.D.C.L.Rev. 47 (2003).

§ 8-1058. Rulemaking.

(a) The Mayor is authorized, in accordance with § 2-501 et seq., to adopt



rules and regulations to implement the provisions of this subchapter, including the establishment of:

(1) Solid waste facility permit requirements that include siting, construction, safety, environmental, and operating performance standards for solid waste facilities;

(2) Permit terms and conditions, which shall include requirements that an applicant for a solid waste facility permit comply with the following conditions:

(A) Before a solid waste facility permit may be issued all portions of the facility shall be located at least 500 feet from any property line;

(B) All portions of the operations area for the solid waste facility shall be set back at least 50 feet from the solid waste facility's own property line; and

(C) Any solid waste facility with an interim operating permit that cannot meet the siting standards in this subchapter shall have 3 years to phase out its operations and close. Nothing in this subchapter shall preclude the District, or any person from seeking and obtaining the immediate closure of a facility on any other basis.

(3) A schedule of fines for violations of this subchapter or the rules and regulations issued under its authority;

(4) Financial and other applicant disclosure forms;

(5) Bonding requirements, or other forms of commercial insurance, or such other mechanisms as the Mayor may deem appropriate;

(6) Procedures to ensure the prompt and safe removal of solid waste from a solid waste facility which has permanently ceased operation;

(7) Procedures to assure that the facility will minimize any negative impacts on an adjoining residential or commercial building or areas including deleterious impacts where materials are odorous to a reasonable person, create an attraction for rodents, or any other impact which may threaten the health of the surrounding neighborhood; and

(8) Application fees for permits and a solid waste facility charge.

(b) The Mayor is further authorized to amend or repeal any provision of Chapter 3 of Title 8 of the District of Columbia Health Regulations, issued June 29, 1971 (Reg. 71-21; 21 DCMR 700 et seq.), to conform the chapter with, or to further the purposes of, this subchapter.

(Feb. 27, 1996, D.C. Law 11-94, § 9, 42 DCR 7172; June 11, 1999, D.C. Law 12-286, § 2(d), 46 DCR 3435.)

**Prior Codifications.** — 1981 Ed., § 6-3458.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(d) of Solid Waste Facility Permit Temporary Amendment Act of 1998 (D.C. Law 12-120, June 11, 1998, law notification 45 DCR 4037).

For temporary (225 day) amendment of section, see § 2 of the Solid Waste Transfer Station Service and Settlement Agreements Temporary Amendment Act of 2002 (D.C. Law 14-229, March 25, 2003, law notification 50 DCR 2742).

For temporary (225 day) addition, see § 2 of

Solid Waste Facility Permit Phase-Out Extension Temporary Amendment Act of 2002 (D.C. Law 14-230, March 25, 2003, law notification 50 DCR 2743).

**Temporary Addition of Section.** — See Historical and Statutory Notes following § 8-1051.

**Emergency legislation.** — For temporary amendment of section, see § 2(d) of the Solid Waste Facility Permit Emergency Amendment Act of 1998 (D.C. Act 12-296, March 4, 1998, 45 DCR 1769).

For temporary (90 day) amendment of sec-



tion, see § 2 of Solid Waste Transfer Station Service and Settlement Agreements Emergency Amendment Act of 2002 (D.C. Act 14-426, July 17, 2002, 49 DCR 7631).

For temporary (90 day) amendment of section, see § 2 of Solid Waste Facility Permit Act of 1995 Phase-Out Extension Emergency Amendment Act of 2002 (D.C. Act 14-427, July 17, 2002, 49 DCR 7635).

For temporary (90 day) amendment of section, see § 2 of Solid Waste Facility Permit Phase-Out Extension Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-495, October 23, 2002, 49 DCR 9783).

For temporary (90 day) amendment of section, see § 2 of Solid Waste Transfer Station Service and Settlement Agreements Congressional Review Emergency Act of 2002 (D.C. Act 14-506, October 23, 2002, 49 DCR 10215).

**Legislative history of Law 11-94.** — For legislative history of D.C. Law 11-94, see Historical and Statutory Notes following § 8-1051.

**Legislative history of Law 12-286.** — For legislative history of D.C. Law 12-286, see Historical and Statutory Notes following § 8-1051.

**Editor's notes.** — Zoning Commission regulations: Section 2(d) of D.C. (Act 12-296) required, on an emergency basis that all portions of a solid waste facility be set back at least 500 feet from any property line. However, regulations promulgated by the Zoning Commission, 45 DC 1848, require a 300 foot separation from residential property and a 50 foot separation from a public park, retail, office, and institutional property.

## § 8-1059. Hearings.

Any person adversely affected by an action taken pursuant to the provisions of this subchapter, or the rules and regulations issued under its authority, shall be entitled to a hearing before the Mayor upon filing with the Mayor, within 15 days of the date of the action, a written request for a hearing. The hearing shall be held in accordance with § 2-509.

(Feb. 27, 1996, D.C. Law 11-94, § 10, 42 DCR 7172.)

**Prior Codifications.** — 1981 Ed., § 6-3459.

**Temporary Addition of Section.** — See Historical and Statutory Notes following § 8-1051.

**Legislative history of Law 11-94.** — For legislative history of D.C. Law 11-94, see Historical and Statutory Notes following § 8-1051.

## § 8-1060. Remedies and penalties.

(a)(1) Whenever the Mayor has reason to believe that (A) there has been a violation of this subchapter or the rules and regulations issued under its authority, or (B) a threat exists to human health, the public welfare, or the environment as the result of the construction, modification, or operation of a solid waste facility located within the District, the Mayor may give written notice of the alleged violation or threat to the person responsible and order the person to take such corrective measures as the Mayor determines reasonable and necessary.

(2) If a person fails to comply with the notice within the time period stated in the notice, the Mayor may take corrective actions necessary to alleviate or terminate the violation or threat. The Mayor may assess a penalty against the person responsible equal to triple the costs of undertaking the corrective actions, or close the facility, or both.

(b) If the Mayor finds that any person is constructing or operating a solid waste facility in a manner which endangers human health, the public welfare, or the environment, or is operating a facility in violation of this subchapter, the Mayor may (A) request the Corporation Counsel to commence appropriate civil

action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief, or (B) issue a cease and desist order.

(c) The Mayor or any court may impose civil fines, penalties, costs, and fees as alternate sanctions for violations of this subchapter, or the rules and regulations issued under its authority, pursuant to § 2-1801.01 et seq. Rules promulgated pursuant to this section shall be submitted to the Council for a 30-day period of review, not including weekends, holidays, or periods of Council recess. Adjudications of any infractions of this subchapter shall be pursuant to § 2-1801.01 et seq. For any violation, each day of the violation shall constitute a separate offense and the penalties prescribed shall apply separately to each separate offense.

(c-1) The Council hereby ratifies the schedule of fines promulgated in § 741 of Chapter 7 of Title 21 of the District of Columbia Municipal Regulations and in effect prior to July 17, 1999.

(d)(1) If the Mayor determines, after investigation, that the conduct of a solid waste facility presents an imminent danger to the public health, safety or the environment, the Mayor shall close and seal the facility.

(2) At the time of the sealing of the facility, the Mayor shall provide the permit holder with written notice stating the action being taken, the basis for the action, and the right of the permit holder to request a hearing.

(3) The permit holder shall have the right to request a hearing within 72 hours after service of notice of the sealing of the premises. The Mayor shall hold a hearing within 72 hours of receipt of a timely request, and shall issue a decision within 72 hours after the hearing.

(4) Every decision and order adverse to a permit holder shall be accompanied by findings of fact and conclusions of law. The findings shall be supported by, and in accordance with, reliable, probative, and substantial evidence. The Mayor shall provide a copy of the decision and order and accompanying findings of fact and conclusions of law to each party to a case.

(5) Any person aggrieved by a final summary action may seek judicial review in accordance with subchapter I of Chapter 5 of Title 2.

(e) Any solid waste facility that is not in compliance with the requirements of this subchapter, regulations promulgated to implement this subchapter, or any permit term or condition is a public nuisance and may be enjoined and abated as provided in this subchapter.

(f) An action to enjoin any public nuisance defined in subsection (e) of this section may be brought in the name of the District of Columbia by the Corporation Counsel or any of his or her assistants, in the Civil Branch of the Superior Court of the District of Columbia against any person conducting or maintaining the public nuisance. The rules of the Superior Court of the District of Columbia relating to granting an injunction or restraining order shall be applicable to actions brought pursuant to this subsection, except that the District, as complaining party, shall not be required to furnish bond or security. It shall not be necessary for the Court to find that the building, ground, premises, or place was being unlawfully used at the time of the hearing. The Court shall enter an order restraining the defendant from



operating a solid waste facility in violation of this subchapter, upon finding that the material allegations of the complaint are true. Nothing in this section shall preclude any person or class of persons, from bringing a public or private nuisance claim against a solid waste facility.

(g) In the case of the violation of any temporary or permanent injunction rendered pursuant to the provisions of this section, proceedings for punishment for contempt may be commenced by the Office of the Corporation Counsel, in accordance with the rules of the court. Any person found guilty of contempt pursuant to this section shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 12 months, or both.

(h) Any person adversely affected by violations of this subchapter or the rules and regulations issued pursuant to this subchapter may commence a civil action on his or her own behalf to secure any appropriate relief, including injunctive relief and the payment of civil fines or penalties, as established by the Mayor pursuant to this subchapter. In any action brought pursuant to this subsection, the court, in issuing its final order, may award costs of litigation, including reasonable expert witness and attorneys fees, to the prevailing or substantially prevailing party, whenever the court determines that an award is appropriate.

(i) Any person violating the provisions of this subchapter, or any rule, regulation or permit issued under its authority, shall, upon conviction in the Superior Court of the District of Columbia, be guilty of a misdemeanor and be fined no more than \$1,000 or imprisoned for a period not to exceed 30 days, or both, in the discretion of the court.

(Feb. 27, 1996, D.C. Law 11-94, § 11, 42 DCR 7172; June 11, 1999, D.C. Law 12-286, § 2(e), 46 DCR 3435; July 17, 1999, D.C. Law 13-15, § 2(b), 46 DCR 4462.)

**Prior Codifications.** — 1981 Ed., § 6-3460.

**Effect of amendments.** — D.C. Law 13-15, in subsec. (c), added the two last two sentences, added subsec. (g), and rewrote subsec. (d), which previously read:

"Any solid waste facility that is not in compliance with the requirements of this subchapter, regulations promulgated to implement this subchapter, or any permit term or condition shall, upon a finding of noncompliance by the Departments of Consumer and Regulatory Affairs, Public Works, or Health, or by the Superior Court of the District of Columbia, be closed. Any facility so closed may file a petition with the Department finding it in noncompliance, for a hearing to allow it to reopen. At the hearing, the facility must prove that it has come into compliance, or has a plan to come into compliance which shall be implemented before the facility may reopen. In allowing a facility to reopen, the Department may impose additional terms and conditions as it deems proper and necessary to protect the public health and safety and to carry out the purposes of this subchapter. These conditions may in-

clude, but are not limited to, requiring a facility to pay reasonable fees for independent experts, sample testing, and government costs in monitoring the petitioning facility's compliance, before or after a finding of noncompliance is made."

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(e) of Solid Waste Facility Permit Temporary Amendment Act of 1998 (D.C. Law 12-120, June 11, 1998, law notification 45 DCR 4037).

For temporary (225 day) amendment of section, see § 2 of Solid Waste Facility Permit Temporary Amendment Act of 1999 (D.C. Law 13-5, May 28, 1999, law notification 46 DCR 5305).

**Temporary Addition of Section.** — See Historical and Statutory Notes following § 8-1051.

For temporary (225 day) addition, see § 2(f) of Solid Waste Facility Permit Temporary Amendment Act of 1998 (D.C. Law 12-120, June 11, 1998, law notification 45 DCR 4037).

**Emergency legislation.** — For temporary



amendment of section, see § 2(e) of the Solid Waste Facility Permit Emergency Amendment Act of 1998 (D.C. Act 12-296, March 4, 1998, 45 DCR 1769), and § 2 of the Solid Waste Facility Permit Emergency Amendment Act of 1999 (D.C. Act 13-17, February 12, 1999, 46 DCR 2351).

For temporary addition of § 6-3460.1 1981 Ed., see § 2(f) of the Solid Waste Facility Permit Emergency Amendment Act of 1998 (D.C. Act 12-296, March 4, 1998, 45 DCR 1769).

For temporary addition of §§ 8-1061 through

8-1063, see § 2(b) through (d) of the Solid Waste Facility Permit Second Emergency Amendment Act of 1998 (D.C. Act 12-623, February 1, 1999, 45 DCR 1364).

**Legislative history of Law 11-94.** — For legislative history of D.C. Law 11-94, see Historical and Statutory Notes following § 8-1051.

**Legislative history of Law 12-286.** — For legislative history of D.C. Law 12-286, see Historical and Statutory Notes following § 8-1051.

**Legislative history of Law 13-15.** — For Law 13-15, see notes following § 8-1053.

## LAW REVIEWS AND JOURNAL COMMENTARIES

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## § 8-1061. Solid Waste Transfer Facility Site Selection Advisory Panel established.

(a) There is established the Solid Waste Transfer Facility Site Selection Advisory Panel ("Panel") with the purpose of preparing comprehensive recommendations to the Council that identify tracts of land suitable for solid waste transfer operations within appropriately zoned sections of the District that safeguard the health, safety and welfare of residents and businesses.

(b) The Panel shall submit its recommendations in a report, which shall include a map that identifies potential sites for the location of solid waste facilities, within 6 months of the Panel's first meeting. The Panel shall rate each site according to its suitability for the purpose of solid waste transfer and shall consider the proximity of other potential sites in rating each site. The potential sites the Panel identifies shall comply with all siting requirements of this subchapter, shall not be inconsistent with the Comprehensive Plan and shall not increase or compound existing detrimental environmental impacts.

(c) In addition to identifying potential sites and rating these sites, the Panel shall study and report on:

(1) The District's reasonable carrying capacity as a regional solid waste facility site based on best practices in solid waste management;

(2) An evaluation of the impact of existing solid waste facilities on local residents;

(3) A study of the solid waste needs of the District;

(4) The total revenue the District has received yearly from each solid waste facility operating in the District since the Certificate of Occupancy was issued for the facility, showing the kinds of taxes and fees that have been paid; and

(5) The available control technologies capable of complying with the BACT standard for the solid waste.

(d) The Panel is authorized to seek the advice of experts with knowledge of the following areas of concern:

(1) Construction techniques for solid waste handling facilities, including knowledge of air modeling and emissions control;

(2) Traffic flow and infrastructure impact and degradation; and

(3) Interstate commerce and the economics of solid waste management.

(e) The Panel shall consult with District agencies with solid waste management expertise, including, but not limited to, the Department of Consumer and Regulatory Affairs, the Department of Public Works and the Department of Health. The Panel shall also consult with the Washington Area Council of Governments and its staff to inform the Panel of regional considerations in solid waste management.

(f) The Panel shall consult with the National Environmental Justice Advisory Council, which is a federal advisory committee established to provide independent judgment to the U.S. Environmental Protection Agency on environmental issues and which is studying or will study the health and environmental impacts of municipal waste transfer operations on minority and disadvantaged communities, including the District.

(g) Within 45 days of its first meeting, the Panel shall provide notice of and hold a public meeting to receive testimony from citizens in respect to the operation of solid waste facilities in the District of Columbia, and shall hold an additional public meeting to present the Panel's findings and a draft report to the community for comment 20 days prior to submitting to the Council the report required by this subchapter.

(Feb. 27, 1996, D.C. Law 11-94, § 11a, as added June 11, 1999, D.C. Law 12-286, § 2(f), 46 DCR 3435.)

**Prior Codifications.** — 1981 Ed., § 6-3461.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Solid Waste Transfer Facility Site Selection Advisory Panel Report Deadline Extension Temporary Amendment Act of 2000 (D.C. Law 13-157, September 16, 2000, law notification 47 DCR 8063).

**Emergency legislation.** — For temporary

(90-day) amendment of section, see § 2 of the Solid Waste Transfer Facility Site Selection Advisory Panel Report Deadline Extension Emergency Amendment Act of 2000 (D.C. Act 13-340, May 9, 2000, 47 DCR 4659).

**Legislative history of Law 12-286.** — For legislative history of D.C. Law 12-286, see Historical and Statutory Notes following § 8-1051.

## § 8-1062. Composition; appointment; vacancies; terms of office; compensation.

(a) The Panel shall be a nonpartisan Panel composed of 9 voting and 5 non-voting, ex officio members.

(1) The voting members of the Panel shall be composed as follows:

(A) One member shall have expertise in environmental health standards;

(B) One member shall have expertise in the economics of solid waste management;

(C) One member shall have expertise in neighborhood economic development;

(D) One member shall have expertise in land use planning;

(E) One member shall have expertise in environmental law;

(F) Three members shall be District residents, drawn from the public at

large, who have no fiduciary or pecuniary interest in the operation of a solid waste facility in the District and public at large; and

(G) One member shall be a representative of the solid waste industry, not associated with any company currently operating a facility in the District.

(2) The non-voting, ex officio members of the Panel shall be the following persons or their designees:

(A) The Director of the Department of Health, Environmental Health Administration;

(B) The Director of the Department of Public Works;

(C) The Director of the Department of Consumer and Regulatory Affairs;

(D) The Director of the Office of Planning; and

(E) The Corporation Counsel.

(b) Members of the Panel shall be nominated by the Mayor who shall transmit to the Council, for a 45-day period of review, excluding days of Council recess, these nominations to the Panel. The Council shall be deemed to have approved a nomination under this subsection if during the 45-day period, no member introduces a resolution disapproving the nomination. If a member introduces a resolution disapproving the nomination within the 45-day period, the Council shall have an additional 45 days, excluding days of Council recess, to disapprove the nomination by resolution, or it will be deemed approved. All appointments shall be made within 90 calendar days of the effective date of the Solid Waste Facility Permit Amendment Act of 1998. The members of the Panel shall elect a Chairperson from among their number by majority vote at a regularly scheduled meeting at which a majority is present. A vacancy shall be filled in the same manner in which its initial appointment was made.

(c) Members of the Panel shall serve a single, non-renewable term not to exceed one year.

(d) Members of the Panel shall serve without compensation. Members, however, may be reimbursed for actual expenses incurred in the performance of official duties for parking, transportation or mileage, not to exceed \$15 per meeting.

(e) The Panel is authorized to receive funding for office space and for administrative expenses not to exceed \$150,000, which funds shall be made available from the Non-Personnel Services budget of the City Administrator based on the availability of appropriations.

(Feb. 27, 1996, D.C. Law 11-94, § 11b, as added June 11, 1999, D.C. Law 12-286, § 2(f), 46 DCR 3435.)

**Prior Codifications.** — 1981 Ed., § 6-3462. legislative history of D.C. Law 12-286, see Historical and Statutory Notes following § 8-1051.  
**Legislative history of Law 12-286.** — For

## § 8-1063. Moratorium.

There shall be a moratorium on the issuance or acceptance of the application for any new solid waste facility permits until after the Solid Waste Transfer Facility Site Selection Advisory Panel submits its report to the Council and the Council acts on the Panel's recommendations by identifying tracts of land



appropriate for solid waste transfer, or, amending the operating requirements established in this subchapter.

(Feb. 27, 1996, D.C. Law 11-94, § 11c, as added June 11, 1999, D.C. Law 12-286, § 2(f), 46 DCR 3435.)

**Prior Codifications.** — 1981 Ed., § 6-3463.

**Temporary legislation.** — For temporary (225 day) addition, see § 3 of Solid Waste Disposal Fee Temporary Amendment Act of 2006 (D.C. Law 16-173, September 29, 2006, law notification 53 DCR 8609).

**Legislative history of Law 12-286.** — For legislative history of D.C. Law 12-286, see Historical and Statutory Notes following § 8-1051.

## CHAPTER 11. MULTI-MATERIAL RECYCLING SYSTEMS.

Sec.

8-1101. Definitions.

8-1102. Comprehensive plan for multi-material recycling system.

### § 8-1101. Definitions.

For purposes of this chapter, the term:

(1) "Discarded material" means a wide variety of materials including liquids in containers that are considered garbage and rejected as being spent, useless, worthless, or in excess. The term "discarded material" does not include household hazardous waste or solid waste found in sewage and water resource systems or those waste products emitted from smoke stacks.

(2) "Household" includes single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

(3) "Household hazardous waste" means any material deriving from households that may be toxic, flammable, corrosive, explosive, or chemically active and, if not properly stored or disposed of, may cause or significantly contribute to serious illness or death or may pose a substantial threat to human health or the environment. The term "household hazardous waste" includes garbage and waste in septic tanks, pesticides, solvents, degreasers, fertilizers, unused flammables such as gasoline and kerosene, and swimming pool chemicals. The term "household hazardous waste" does not apply to a household generating more than 50 kilograms of hazardous waste per month.

(4) "Multi-material" means:

(A) Reusable organic compounds;

(B) All types of consumer products that have fulfilled their useful function and usually cannot be used further in their present form or at their present location; and

(C) Products that result in waste from the manufacture or conversion of products.

(5) "Organic compounds" means material made from substances composed of chemical compounds of carbon and generally manufactured in the life processes of plants and animals. The term "organic compounds" includes paper, wood, mulch, and yard and food wastes capable of being reused for household purposes.

(6) "Recycling program" means a resource recovery method that involves the collection and treatment of waste products for use as raw materials in manufacturing the same or a similar product.

(7) "Resource recovery" means the recovery of materials or energy from solid waste.

(8) "Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

(9) "Separation" means the segregation and collection of individual recy-

clable components before the materials become mixed into the process of solid waste disposal.

(10) "Solid waste" means garbage, refuse, and sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other waste products, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, government operations, and from community activities.

(July 25, 1987, D.C. Law 7-19, § 2, 34 DCR 3810.)

**Prior Codifications.** — 1981 Ed., § 6-3201.

**Legislative history of Law 7-19.** — Law 7-19, the "District of Columbia Comprehensive Plan for a Multi-Material Recycling System Act of 1987," was introduced in Council and assigned Bill No. 7-62, which was referred to the

Committee on Public Works. The Bill was adopted on first and second readings on May 5, 1987 and May 19, 1987, respectively. Signed by the Mayor on June 1, 1987, it was assigned Act No. 7-33 and transmitted to both Houses of Congress for its review.

## § 8-1102. Comprehensive plan for multi-material recycling system.

(a) Within 1 year from July 25, 1987, the Mayor of the District of Columbia ("Mayor") shall submit to the Council of the District of Columbia ("Council") a comprehensive plan for a District of Columbia ("District") multi-material recycling system for the purpose of recovering energy and other resources from discarded materials and solid waste and for distributing reusable organic compounds for public use.

(b) Before submitting the comprehensive plan to the Council, the Mayor shall:

(1) Hold a public hearing to receive public comments on the proposed comprehensive plan; and

(2) Consult with the Council, the Litter and Solid Waste Reduction Commission established pursuant to § 3-1001, the Hazardous Materials Study Commission established pursuant to § 8-1201 [repealed], and other interested parties.

(c) The comprehensive plan submitted to the Council by the Mayor shall include:

(1) A technical and economic description of the level of performance and results that can be attained from an effective multi-material recycling program and solid waste resource recovery facility;

(2) Detailed methods for the collection, transportation, separation, and reduction of discarded materials, household hazardous waste, and solid waste;

(3) Guidelines for the implementation of an office waste paper recycling program for District government office buildings, District-based educational facilities, and private corporations;

(4) Information regarding the alternative management of garbage disposal and resource recovery;

(5) Information regarding an adequate location, design, and construction site for a facility associated with the conversion of solid waste to energy;

(6) Information regarding regional, geographic, demographic, and environmental factors;



(7) Information regarding public health and safety considerations and applicable federal regulations;

(8) Guidelines for the distribution of reusable organic compounds, such as mulch, at convenient distribution centers throughout the District for use by its residents for gardening, landscaping, and other similar purposes; and

(9) A description of a public information campaign and community outreach program to be targeted to District residents and visitors regarding the importance of the District's multi-material recycling system and the public's role in this system.

(July 25, 1987, D.C. Law 7-19, § 3, 34 DCR 3810.)

**Prior Codifications.** — 1981 Ed., § 6-3202.

**Legislative history of Law 7-19.** — For legislative history of D.C. Law 7-19, see Historical and Statutory Notes following § 8-1101.

**References in text.** — "Section 8-1201," referred to in (b)(2), was repealed by § 7 of D.C. Law 7-190, effective March 16, 1989.

SUBTITLE C. HAZARDOUS WASTE AND MATERIALS  
DISPOSAL AND MANAGEMENT.

CHAPTER 12. HAZARDOUS MATERIALS STUDY COMMISSION.

Sec.

8-1201 to 8-1205. [Repealed].

**§§ 8-1201 to 8-1205. Hazardous Materials Study Commission established; reports; appointment of commission members; compensation; priorities; office space; supplies and services; staff; term of Commission. [Repealed].**

Repealed.

(Mar. 16, 1989, D.C. Law 7-190, § 7, 35 DCR 8663.)

**Prior Codifications.** — 1981 Ed., §§ 6-3001 to 6-3005.

**Legislative history of Law 7-190.** — Law 7-190, the “District of Columbia Hazardous Materials Transportation and Motor Carrier Safety Act of 1988,” was introduced in Council and assigned Bill No. 7-20, which was referred

to the Committee on Public Works. The Bill was adopted on first and second readings on October 25, 1988 and November 15, 1988, respectively. Signed by the Mayor on December 1, 1988, it was assigned Act No. 7-252 and transmitted to both Houses of Congress for its review.

## CHAPTER 13. HAZARDOUS WASTE MANAGEMENT.

*Subchapter I. General Provisions**Subchapter II. Toxic Source Reduction*

Sec.

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Sec.

- 8-1315. Hazardous waste and toxic chemical source reduction.
- 8-1316. Identification of major generators of hazardous waste and releasers of toxic chemicals.
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- 8-1322. Rules.

*Subchapter I. General Provisions.***§ 8-1301. Purposes and findings.**

(a) The purposes of this chapter are:

- (1) To insure safe and effective hazardous waste management;
- (2) To establish a program of regulation over the generation, storage, transportation, treatment, and disposal of hazardous waste and fuel containing hazardous waste and the production, marketing, distribution, and burning of fuel produced from or containing hazardous waste; and
- (3) To reduce or eliminate at the source, wherever feasible and as expeditiously as possible, the generation of hazardous waste and the release of toxic chemicals in the District of Columbia.

(b) The Council of the District of Columbia finds that:

- (1) Increasing production and consumption rates, continuing technological development, and energy requirements have led to the generation of greater quantities of hazardous waste;
- (2) The problems of disposing of hazardous waste are increasing as a result of air and water pollution controls and a shortage of available landfill sites;
- (3) While it is technologically and financially feasible for hazardous waste generators to reduce and eliminate wastes generated, and to dispose of their wastes in a manner which has a less adverse impact on the environment than current practices, such knowledge is not being utilized to the extent possible;
- (4) Even though the District of Columbia is not heavily industrialized, there is a significant daily hazardous waste disposal problem;
- (5) The public health and safety, and the environment, are threatened where hazardous wastes are not managed in an environmentally sound manner;
- (6) In accordance with section 101(b) of the Federal Solid Waste Disposal Act, approved November 8, 1984 (98 Stat. 3224; 42 U.S.C. § 6902(b)), it is the



policy of the District of Columbia that, wherever feasible, the generation of hazardous waste and the release of toxic chemicals is to be reduced or eliminated as expeditiously as possible; and

(7) Other states and local jurisdictions that have implemented source reduction technical assistance programs for businesses have shown programs to be cost-effective.

(Mar. 16, 1978, D.C. Law 2-64, § 2, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(a), 31 DCR 3032; Oct. 18, 1989, D.C. Law 8-37, § 2(a), 36 DCR 5748; Mar. 8, 1991, D.C. Law 8-229, title I, § 102(a), 38 DCR 246.)

**Prior Codifications.** — 1981 Ed., § 6-701. 1973 Ed., § 6-521.

**Legislative history of Law 2-64.** — Law 2-64, the “District of Columbia Hazardous Waste Management Act of 1977,” was introduced in Council and assigned Bill No. 2-163, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on November 22, 1977 and December 6, 1977, respectively. Signed by the Mayor on January 20, 1978, it was assigned Act No. 2-133 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 5-103.** — Law 5-103, the “Hazardous Waste Management Amendments Act of 1984,” was introduced in Council and assigned Bill No. 5-381, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on April 30, 1984, and May 15, 1984, respectively. Signed by the Mayor on June 6, 1984, it was assigned Act No. 5-144 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-37.** — For legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1313.

**Legislative history of Law 8-229.** — For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 2-64, the “District of Columbia Hazardous Waste Management Act of 1977,” see Mayor’s Order 98-55, April 15, 1998 (45 DCR 2704).

**Editor’s notes.** — Air quality control regulations enacted: Section 3 of D.C. Law 5-165, as amended by § 15 of D.C. Law 6-192, effective February 24, 1987, enacted air quality control regulations of the District of Columbia as Chapters 1 through 9 of Title 20 of the District of Columbia Municipal Regulations, “Environment and Energy”.

Section 485 of D.C. Law 6-42 amended §§ 100.4 and 105.1 of the Air Quality Control Regulations, effective March 15, 1985 (D.C. Law 5-165; 20 DCMR Chapters 1 through 9) to provide for adjudication of infractions pursuant to Chapter 18 of Title 2. Section 501(b) of D.C. Law 6-42 provided that the provisions of the act shall apply only to infractions which occur or are discovered by inspection after October 5, 1985.

## § 8-1302. Definitions.

For purposes of this chapter:

(1) The term “disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment, be emitted into the air, or discharged into any waters, including ground waters.

(1A) The term “guarantor” means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator.

(2) The term “hazardous waste” means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, as established by the Mayor, may: (1) cause, or significantly contribute to

an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Such wastes include, but are not limited to, those which are toxic, carcinogenic, flammable, irritants, strong sensitizers, or which generate pressure through decomposition, heat or other means, as well as containers and receptacles previously used in the transportation, storage, use or application of the substances described as a hazardous waste.

(3) The term “generation” means the act or process of producing hazardous waste.

(3A) The term “generator” means any person by site whose act or process produces hazardous waste or whose act first causes a hazardous waste to be subject to regulation.

(3B) The term “manifest” means the form used for identifying the quantity, composition, and the origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(4) The term “Mayor” means the Mayor of the District of Columbia or his or her designated agent.

(5) The term “person” means any individual, partnership, corporation (including a government corporation), trust, association, firm, joint-stock company, organization, commission, the District or federal government, or other entity.

(5A) The term “person responsible” means a person who is or has been the generator of hazardous waste, the owner or operator of a site that contains or a vehicle that transports hazardous waste, or a person who by contract, agreement, or otherwise arranges or has arranged for disposal or treatment of hazardous waste.

(5B)(A) The term “source reduction” means any practice that:

(i) Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment, including fugitive emissions, prior to recycling, treatment, or disposal; and

(ii) Reduces the hazard to public health and the environment associated with the release of a hazardous substance, pollutant, or contaminant.

(B) The term “source reduction” includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

(C) The term “source reduction” does not include any practice that alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity that is not integral to and necessary for the production of a product or the provision of a service.

(6) The term “storage” means containment in such a manner as not to constitute disposal.

(6A) The term “toxic chemical” means a chemical or chemical category listed in 40 C.F.R. 372.65.

(7) The term “transport” means the movement from the point of generation to any intermediate site, and finally to the point of ultimate storage or disposal.

(8) The term “treatment” means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a hazardous waste so as to neutralize or as to render it nonhazardous, safer for transport, amenable for recovery or storage, or reduced in volume.

(9) The term “treatment facility” means a location for treatment, including an incinerator or a facility where generation has occurred.

(Mar. 16, 1978, D.C. Law 2-64, § 3, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(b), 31 DCR 3032; Oct. 18, 1989, D.C. Law 8-37, § 2(b), 36 DCR 5748; Mar. 8, 1991, D.C. Law 8-229, title I, § 102(b), 38 DCR 246; Feb. 5, 1994, D.C. Law 10-68, § 15(a), 40)

**Section references.** — This section is referenced in § 8-105.02, § 8-1051, § 8-1053, and § 8-1441.

**Prior Codifications.** — 1981 Ed., § 6-702. 1973 Ed., § 6-522.

**Legislative history of Law 2-64.** — For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

**Legislative history of Law 5-103.** — For legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

**Legislative history of Law 8-37.** — For legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1313.

**Legislative history of Law 8-229.** — For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

**Legislative history of Law 9-149.** — Law 9-149, the “Environmental Policy and Hazardous and Solid Waste Temporary Amendment

Act of 1992,” was introduced in Council and assigned Bill No. 9-522. The Bill was adopted on first and second readings on May 6, 1992, and June 2, 1992, respectively. Signed by the Mayor on June 19, 1992, it was assigned Act No. 9-229 and transmitted to both Houses of Congress for its review. D.C. Law 9-149 became effective on September 10, 1992.

**Legislative history of Law 10-68.** — D.C. Law 10-68, the “Technical Amendments Act of 1993,” was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

## § 8-1303. Permits.

(a) It is unlawful to own, construct, substantially alter, or operate any hazardous waste treatment, storage, or disposal facility or site or to generate, store, transport, treat, or dispose of any hazardous waste except in accordance with the terms of the permit issued by the Mayor for the facility, site, or activity.

(b) The Mayor may issue, vary, or modify the terms of a permit or suspend, revoke, or deny a permit to achieve the purposes of this chapter, except that the Mayor may not issue a permit for a period that exceeds 10 years. The terms of any permit for a treatment, storage, or disposal facility shall require that the permit holder take corrective action within or beyond the facility boundary if necessary to protect human health and the environment. The Mayor may establish the appropriate permit fee according to costs associated with its issuance.



(c) Any license issued pursuant to this section shall be issued as an Environmental Materials endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(Mar. 16, 1978, D.C. Law 2-64, § 4, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(c), 31 DCR 3032; Oct. 18, 1989, D.C. Law 8-37, § 2(c), 36 DCR 5748; Apr. 20, 1999, D.C. Law 12-261, § 2003(h), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(m), 50 DCR 6913.)

**Section references.** — This section is referenced in § 8-1309.

**Prior Codifications.** — 1981 Ed., § 6-703. 1973 Ed., § 6-523.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (c), substituted “an Environmental Materials endorsement to a basic business license under the basic” for “a Class A Environmental Materials endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(m) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 2-64.** — For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

**Legislative history of Law 5-103.** — For

legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

**Legislative history of Law 8-37.** — For legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1313.

**Legislative history of Law 12-261.** — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-210 became effective on April 20, 1999.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 8-111.03.

## § 8-1304. Hazardous waste management plan.

Within 6 months of the effective date of this chapter, the Mayor shall publish in the District of Columbia Register a hazardous waste management plan for the District of Columbia, which shall include, as a minimum:

(1) A description of the criteria for determining what constitutes a hazardous waste;

(2) Identification of the types and quantities of hazardous wastes generated in the District of Columbia, of hazardous wastes which may be amenable for recycling or reuse, of current hazardous waste management practices, of proper procedures for the handling, storage and transportation of hazardous wastes and of the best methods and facilities or sites (including possible extrajurisdictional sites) for the storage, treatment or disposal of hazardous wastes; and

(3) A comparison of the alternatives, costs and benefits of public and private transportation, storage, treatment, and disposal of hazardous wastes.

(Mar. 16, 1978, D.C. Law 2-64, § 5, 24 DCR 6289.)

**Section references.** — This section is referenced in § 8-1305.

**Prior Codifications.** — 1981 Ed., § 6-704. 1973 Ed., § 6-524.

**Legislative history of Law 2-64.** — For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

## § 8-1305. Rules and regulations.

(a) Within 3 months after publication of the plan required in § 8-1304, the Mayor shall adopt, in accordance with § 2-505, and may thereafter revise as appropriate, rules and regulations necessary to carry out the purposes and provisions of this chapter, including, but not limited to, rules and regulations regarding the following aspects of proper hazardous waste management:

- (1) Criteria for determining what constitutes a hazardous waste;
- (2) Generation, storage, treatment, and disposal of hazardous wastes;
- (3) Transportation, containerization, and labeling of hazardous wastes (consistent with those issued by the United States Department of Transportation);
- (4) On-site handling, including the separation and combination of hazardous wastes;
- (5) Operation and maintenance of hazardous waste treatment or disposal facilities or sites;
- (6) Certification of supervisory personnel at hazardous waste treatment or disposal facilities or sites;
- (7) Procedures and requirements for the use of a manifest or form which identifies the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage;
- (8) Marketing, distribution, and burning of fuel produced from a hazardous waste or containing a hazardous waste; and
- (9) Requirements for on-site and off-site corrective action by owners or operators of a disposal, storage, and treatment facility.

(b) At the time of publication of the proposed rules and regulations referred to in this section, a copy of the same shall be provided to the Council of the District of Columbia.

(c) The proposed rules shall be submitted to the Council for a 45-day period of review excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(Mar. 16, 1978, D.C. Law 2-64, § 6, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(d), 31 DCR 3032; Oct. 18, 1989, D.C. Law 8-37, § 2(d), 36 DCR 5748.)

**Prior Codifications.** — 1981 Ed., § 6-705. 1973 Ed., § 6-525.

**Legislative history of Law 2-64.** — For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

**Legislative history of Law 5-103.** — For legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

**Legislative history of Law 8-37.** — For legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1313.

**Delegation of Authority.** — Delegation of

Authority pursuant to D.C. Law 2-64, the District of Columbia Hazardous Waste Management Act of 1977, see Mayor's Order 2005-70, April 19, 2005 (52 DCR 5495).

**Resolutions.** — Resolution 16-95, the "Hazardous Waste Management Rulemaking Approval Resolution of 2005", was approved effective January 11,

**Editor's notes.** — District of Columbia Hazardous Waste Management Act Proposed Rulemaking Approval Resolution of 1995: Pursuant to Proposed Resolution 11-174, deemed

approved October 11, 1995, Council approved the proposed rulemaking adopting Chapters 40 through 54 (Hazardous Waste Regulations) of

Title 20 DCMR issued pursuant to the "District of Columbia Hazardous Waste Management Act of 1977", as amended.

### § 8-1306. Variance.

The Mayor may grant a variance not to exceed 180 days upon a showing that compliance with the requirements of this chapter or the rules and regulations promulgated pursuant thereto would result in an unreasonable financial hardship, and that the public health and welfare would not be endangered.

(Mar. 16, 1978, D.C. Law 2-64, § 7, 24 DCR 6289.)

**Prior Codifications.** — 1981 Ed., § 6-706.  
1973 Ed., § 6-526.

legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

**Legislative history of Law 2-64.** — For

### § 8-1307. Inspections; analyses; right of entry; notice; posting.

(a) For the purpose of enforcing this chapter or any rule or regulation promulgated pursuant to this chapter, the Mayor may at any reasonable time, within reasonable limits, and in a reasonable manner, upon presenting appropriate credentials to the owner, operator or agent in charge:

(1) Enter without delay any place where hazardous wastes are or have been generated, stored, treated, transported, or disposed;

(2) Inspect and obtain samples of any waste, or substance used in the treatment of waste;

(3) Inspect and copy any records, reports, information, or test results relating to the purposes of this chapter. Each such inspection shall be commenced and completed with reasonable promptness.

(b) If the officer or employee obtains any samples prior to leaving the premises, he or she shall give to the owner, operator, or agent in charge, a receipt describing the sample obtained, and if requested, a portion of each such sample equal in volume or weight to the portion retained. If any analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

(c) When there is a threat to human health or the environment, or a release of hazardous waste into the environment, and the responsible party or address is unknown, or cannot be located, written notice shall be served by conspicuously posting the notice on the property where the threat exists or the release occurred and sending a copy to the last known address via certified mail.

(d) When dangerous chemicals and hazardous waste on property pose an imminent threat to human health or the environment, the Mayor may post the property and restrict access. The posting shall provide the public with notice that a dangerous condition exists and shall prohibit the owner from removing or handling the waste without prior approval by the Mayor.

(Mar. 16, 1978, D.C. Law 2-64, § 8, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(e), 31 DCR 3032; Oct. 18, 1989, D.C. Law 8-37, § 2(e), 36 DCR 5748.)



**Prior Codifications.** — 1981 Ed., § 6-707. 1973 Ed., § 6-527.

**Legislative history of Law 2-64.** — For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

**Legislative history of Law 5-103.** — For

legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

**Legislative history of Law 8-37.** — For legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1313.

## § 8-1308. Appeal procedures.

Any person adversely affected by an action taken pursuant to the provisions of this chapter or the rules and regulations promulgated thereto is entitled to a hearing before the Mayor upon filing with the Mayor, within 15 days of the date of such action, a written request for a hearing. Such hearing shall be held in accordance with other contested case procedures under the provisions of the District of Columbia Administrative Procedure Act (§ 2-509). The decision on the appeal shall be final.

(Mar. 16, 1978, D.C. Law 2-64, § 9, 24 DCR 6289.)

**Prior Codifications.** — 1981 Ed., § 6-708. 1973 Ed., § 6-528.

**Legislative history of Law 2-64.** — For

legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

## § 8-1309. Suspension and revocation of permit.

(a)(1) The Mayor may suspend a permit issued in accordance with § 8-1303 if the holder of the permit is in violation of this chapter or the rules promulgated pursuant to the chapter.

(2) Written notice of the suspension shall be served upon the affected party or the party's designated agent.

(b)(1) Where a permit has been suspended, the person affected has the right to reapply for a permit.

(2) If the person is able to demonstrate an ability and willingness to comply with the permit and with the provisions of this chapter and the rules, the Mayor may grant a new permit.

(c)(1) Where there is a history of repeated violations or where a permit has been previously suspended, the Mayor may revoke a permit, upon a showing of subsequent violation, and upon providing the affected party, or the party's designated agent, with written notice of the intent to revoke the permit and with an opportunity for a hearing prior to revocation.

(2) The revocation shall take effect 15 days after the notice has been given, unless a written request for a hearing is received by the Mayor within that period.

(d) The Mayor may immediately revoke a permit upon an initial violation of the chapter or the rules where the violation presents an imminent and substantial endangerment to the public health, the public welfare, or the environment.

(Mar. 16, 1978, D.C. Law 2-64, § 10, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(f), 31 DCR 3032.)

**Prior Codifications.** — 1981 Ed., § 6-709. 1973 Ed., § 6-529.

**Legislative history of Law 2-64.** — For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

**Legislative history of Law 5-103.** — For legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

## § 8-1310. Injunction.

If the Mayor finds that any person is operating a storage, treatment, or disposal facility, or is generating or transporting hazardous wastes in an illegal, unsafe, or otherwise improper manner that endangers the public health, the public welfare, or the environment, the Mayor may request the Corporation Counsel to commence appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief.

(Mar. 16, 1978, D.C. Law 2-64, § 11, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(g), 31 DCR 3032.)

**Prior Codifications.** — 1981 Ed., § 6-710. 1973 Ed., § 6-530.

**Legislative history of Law 2-64.** — For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

**Legislative history of Law 5-103.** — For legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

## § 8-1311. Penalties.

(a)(1) Whenever the Mayor has reason to believe that there has been a violation of this chapter, the rules promulgated pursuant to this chapter, a threat to human health or the environment, or a release of hazardous waste into the environment, the Mayor may give written notice of the alleged violation, threat, or release to the person responsible and order the person to monitor, test, or take corrective measures that the Mayor considers reasonable and necessary.

(2) The notice shall state the nature of the violation, threat, or release and allow a reasonable time for the performance of the necessary corrective measures.

(A) If a person fails to comply with the notice within the time period stated in the notice, the Mayor shall take corrective action necessary to alleviate or terminate the violation, threat, or release to protect human health or the environment.

(B) The Mayor may recover the costs of corrective action incurred by the District of Columbia government from any person responsible by requesting the Corporation Counsel to commence appropriate civil action in the Superior Court of the District of Columbia.

(b)(1) Any person who violates this chapter or the rules shall be liable for a civil penalty in an amount not to exceed \$25,000 for each violation.

(2) For any violation, each day of the violation shall constitute a separate offense and the penalties prescribed shall apply separately to each offense.

(c)(1) Any person who knowingly violates this chapter or the rules shall be

punished by a fine not to exceed \$25,000 or imprisonment not to exceed 1 year, or both.

(2) For any violation, each day of the violation shall constitute a separate offense and the penalties prescribed shall apply separately to each offense.

(3) Prosecutions for violations of this subsection shall be brought by the Corporation Counsel.

(d) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(Mar. 16, 1978, D.C. Law 2-64, § 12, 24 DCR 6289; Aug. 10, 1984, D.C. Law 5-103, § 2(h), 31 DCR 3032; Oct. 5, 1985, D.C. Law 6-42, § 418, 32 DCR 4450; Oct. 18, 1989, D.C. Law 8-37, § 2(f), 36 DCR 5748.)

**Prior Codifications.** — 1981 Ed., § 6-711. 1973 Ed., § 6-531.

**Legislative history of Law 2-64.** — For legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

**Legislative history of Law 5-103.** — For legislative history of D.C. Law 5-103, see Historical and Statutory Notes following § 8-1301.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was

introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-37.** — For legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1313.

## § 8-1312. Severability.

Each separate provision of this chapter shall be deemed independent of any other provision of this chapter, and if any provision, sentence, clause, section, or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this chapter or their application to other parts or circumstances. It is hereby declared to be the legislative intent that this chapter would have been enacted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included therein, and if the person or circumstances to which this chapter or any part thereof is inapplicable had been specifically exempted therefrom.

(Mar. 16, 1978, D.C. Law 2-64, § 13, 24 DCR 6289.)

**Prior Codifications.** — 1981 Ed., § 6-712. 1973 Ed., § 6-532.

**Legislative history of Law 2-64.** — For

legislative history of D.C. Law 2-64, see Historical and Statutory Notes following § 8-1301.

## § 8-1313. Dust suppression and road treatment.

The use of waste, used oil, or other material, which is contaminated or mixed with dioxin or any other hazardous waste for dust suppression or road treatment in the District of Columbia, is prohibited.



(Mar. 16, 1978, D.C. Law 2-64, § 15, as added Oct. 18, 1989, D.C. Law 8-37, § 2(g), 36 DCR 5748.)

**Prior Codifications.** — 1981 Ed., § 6-713.

**Legislative history of Law 8-37.** — Law 8-37, the “District of Columbia Hazardous Waste Management Act of 1977 Amendment Act of 1989,” was introduced in Council and assigned Bill No. 8-216, which was referred to

the Committee on Public Works. The Bill was adopted on first and second readings on June 27, 1989 and July 11, 1989, respectively. Signed by the Mayor on July 27, 1989, it was assigned Act No. 8-66 and transmitted to both Houses of Congress for its review.

## § 8-1314. Actions against guarantor.

(a) Any claim arising from conduct of an owner or operator of a hazardous waste treatment, storage, or disposal facility for which evidence of financial responsibility is required, may be asserted directly against the guarantor that provides evidence of financial responsibility if:

(1) The owner or operator is in bankruptcy, reorganization, or arrangement pursuant to 11 U.S.C. § 101 et seq.; or

(2) The owner or operator is likely to be solvent at the time of judgment, but jurisdiction cannot be obtained with reasonable diligence in any state or federal court.

(b) In any claim asserted against a guarantor pursuant to subsection (a) of this section, the guarantor shall be entitled to invoke all rights and defenses that would have been available to the owner or operator of the hazardous waste storage, treatment, or disposal facility if an action had been brought against the owner or operator by the claimant and that would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(c) The total liability of any guarantor shall be limited to the aggregate amount that the guarantor has provided as evidence of financial responsibility to the owner or operator.

(Mar. 16, 1978, D.C. Law 2-64, § 16, as added Oct. 18, 1989, D.C. Law 8-37, § 2(g), 36 DCR 5748.)

**Prior Codifications.** — 1981 Ed., § 6-714.

**Legislative history of Law 8-37.** — For

legislative history of D.C. Law 8-37, see Historical and Statutory Notes following § 8-1013.

## *Subchapter II. Toxic Source Reduction.*

## § 8-1315. Hazardous waste and toxic chemical source reduction.

Within 1 year from March 8, 1991, the Mayor shall:

(1) Provide general information that publicizes the advantages of and opportunities for hazardous waste and toxic chemical source reduction, including the requirements of this subchapter, to government agencies, business and trade associations, business conferences, and trade fairs;

(2) Prioritize and target business sectors that require the greatest assistance in accordance with § 8-1316;

(3) Provide assistance to any business identified in § 8-1316, as well as other businesses, through the transfer of technical information from other source reduction programs, data bases, and research institutes. The Mayor may facilitate research relationships with universities or other institutions to promote the purposes of this subchapter;

(4) Establish, at a minimum, a library of source reduction literature pertinent to District businesses identified in accordance with § 8-1316 that contains an on-line computer link-up with established pollution prevention data bases that include data bases operated by the United States Environmental Protection Agency ("EPA");

(5) Prepare and present conferences, seminars, publications, and other programs as may be appropriate to provide targeted businesses with access to the information available on hazardous waste and toxic chemical source reduction;

(6) Train designated inspectors to assess hazardous waste and toxic chemical source reduction plans and audits;

(7) Secure funding and provide for coordination to the maximum extent practicable between designated District government agencies and the EPA to promote the use of source reduction techniques by businesses, training, and other programs in accordance with section 6605 of the Omnibus Budget Reconciliation Act of 1990, approved November 5, 1990 (Pub. L. No. 101-508) ("Pollution Prevention Act"); and

(8) Assess and collect a fee on the generation of hazardous waste and emission of toxic chemicals.

(Mar. 16, 1978, D.C. Law 2-64, § 17, as added Mar. 8, 1991, D.C. Law 8-229, title I, § 102(c), 38 DCR 246.)

**Prior Codifications.** — 1981 Ed., § 6-731.

**Legislative history of Law 8-229.** — Law 8-229, the "Toxic Source Reduction Business Assistance Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-695, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on

December 27, 1990, it was assigned Act No. 8-312 and transmitted to both Houses of Congress for its review.

**References in text.** — Section 6605 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508, the Pollution Prevention Act, referred to in (7), is codified as 42 U.S.C. § 13104.

## § 8-1316. Identification of major generators of hazardous waste and releasers of toxic chemicals.

(a) Within 180 days of March 8, 1991, the Mayor shall determine and present to the Council a report that identifies the following:

(1) Businesses that belong to the 3 largest 3-digit United States Department of Commerce Standard Industrial Classifications ("SICs") of generators of hazardous waste in the District;

(2) Businesses that belong to the 3 largest 3-digit SIC users of toxic chemicals in the District;

(3) Businesses that belong to the 3 largest 3-digit SIC releasers of toxic chemicals in the District; and

(4) The top 25% of businesses, including any District or United States government operations, that generate or release the largest amount of hazardous waste or toxic chemicals in the District.

(b) Within 30 days after the Mayor has presented the report specified in subsection (a) of this section to the Council, the Mayor shall notify in writing each business identified that the business is subject to the provisions of this subchapter.

(c) Every 4 years following March 8, 1991, the Mayor shall reassess the findings required by subsection (a) of this section and make any change in the reporting or targeting of technical assistance indicated.

(Mar. 16, 1978, D.C. Law 2-64, § 18, as added Mar. 8, 1991, D.C. Law 8-229, title I, § 102(c), 38 DCR 246.)

**Section references.** — This section is referenced in § 8-1315 and § 8-1317.

**Prior Codifications.** — 1981 Ed., § 6-732.

**Legislative history of Law 8-229.** — For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

## § 8-1317. Annual hazardous waste and toxic chemical reports.

(a) Within 270 days of March 8, 1991, and annually thereafter, a business shall submit EPA Form R to the Mayor, including Part III #8, pursuant to 40 C.F.R. 372.85, if the business:

(1) Releases a toxic chemical subject to regulation in accordance with 40 C.F.R. 372;

(2) Generates hazardous waste subject to regulation in accordance with 40 C.F.R. 261, 262, 263, or 264; or

(3) Is identified in § 8-1316.

(b) The Mayor shall require the submission of additional source reduction and recycling data collected in accordance with section 6607 of the Pollution Prevention Act, or other federal legislation or regulations.

(c) EPA Form R, and any additional data required, shall be signed by a senior-level manager who shall be liable for any inaccuracies contained in the submission.

(Mar. 16, 1978, D.C. Law 2-64, § 19, as added Mar. 8, 1991, D.C. Law 8-229, title I, § 102(c), 38 DCR 246.)

**Section references.** — This section is referenced in § 8-1318.

**Prior Codifications.** — 1981 Ed., § 6-733.

**Legislative history of Law 8-229.** — For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

**References in text.** — The “Pollution Prevention Act”, referred to in (b), is Pub. L. 101-508, § 6601 et seq., codified at 42 U.S.C. § 13101 et seq. Section 6607 of the Pollution Prevention Act, referred to in (b), is codified at 42 U.S.C. § 13106.

## § 8-1318. Hazardous waste and toxic chemical source reduction plans.

(a) Pursuant to rules issued by the Mayor in accordance with § 8-1322, beginning on January 1, 1992, and every 4 years thereafter, each business



required to submit EPA Form R, and any additional data required, in accordance with § 8-1317, including any District or federal government operations where applicable, shall submit a source reduction plan to the Mayor.

(b) Any source reduction plan submitted to the Mayor shall include the following:

(1) A statement of facility-wide management policy regarding hazardous waste and toxic chemical reduction;

(2) A statement of the scope and objectives of the plan, including the anticipated facility-wide reduction for each hazardous waste generated or toxic chemical used during the next 4 years;

(3) An identification of the type and amount of any hazardous waste generated or toxic chemical released into the environment; and

(4) A comprehensive economic and technical evaluation of appropriate technologies, procedures, and training programs to achieve hazardous waste and toxic chemical source reduction, including a schedule for and the estimated costs of implementation of the reduction.

(Mar. 16, 1978, D.C. Law 2-64, § 20, as added Mar. 8, 1991, D.C. Law 8-229, title I, § 102(c), 38 DCR 246.)

**Prior Codifications.** — 1981 Ed., § 6-734.  
**Legislative history of Law 8-229.** — For

legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

## § 8-1319. Establishment of a Hazardous Waste and Toxic Chemical Release Source Reduction Fund and fee. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-64, § 21, as added Mar. 8, 1991, D.C. Law 8-229, title I, § 102(c), 38 DCR 246; Feb. 5, 1994, D.C. Law 10-68, § 15(b), 40 DCR 6311; Sept. 14, 2011, D.C. Law 19-21, § 9091, 58 DCR 6226.)

**Prior Codifications.** — 1981 Ed., § 6-735.

**Legislative history of Law 8-229.** — For legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.

**Legislative history of Law 10-68.** — For

legislative history of D.C. Law 10-68, see Historical and Statutory Notes following § 8-1302.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 8-102.03.

## § 8-1320. Hazardous waste and toxic chemical fee waivers.

(a) Pursuant to rules issued by the Mayor in accordance with § 8-1322, any business may receive a waiver of the fee if the Mayor finds that the business has met the following conditions:

(1) Satisfied the requirements of this subchapter that pertain to the business;

(2) Performed and submitted a hazardous waste and toxic chemical source reduction audit to the Mayor; and

(3) Successfully implemented source reduction techniques so that the generation of hazardous waste or toxic chemical usage has been significantly

reduced to levels identified in the technical literature for that standard industrial classification as representative of the best source reduction practice.

(b) Industrial classifications that engage in off-site recycling to reclaim the resource value of waste as the best management strategy for minimizing waste may substitute recycling for the source reduction techniques specified in subsection (a)(3) of this section. At no time shall incineration, with or without energy recovery, be regarded as source reduction or recycling for the purposes of this subchapter.

(Mar. 16, 1978, D.C. Law 2-64, § 22, as added Mar. 8, 1991, D.C. Law 8-229, title I, § 102(c), 38 DCR 246.)

**Prior Codifications.** — 1981 Ed., § 6-736. legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.  
**Legislative history of Law 8-229.** — For

### § 8-1321. Confidential business information.

No trade secret or commercial or financial information submitted by a business to the District government pursuant to the requirements of this subchapter shall be disclosed to the public, if the Mayor determines that the disclosure would result in a substantial harm to the competitive position of the business in accordance with § 2-534(a)(1).

(Mar. 16, 1978, D.C. Law 2-64, § 23, as added Mar. 8, 1991, D.C. Law 8-229, title I, § 102(c), 38 DCR 246.)

**Prior Codifications.** — 1981 Ed., § 6-737. legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.  
**Legislative history of Law 8-229.** — For

### § 8-1322. Rules.

(a) Within 180 days from March 8, 1991, the Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement the provisions of this subchapter, including rules regarding the criteria for preparation of source reduction plans and the imposition of source reduction fees. The Mayor shall consult and give significant weight to the recommendations of the Litter and Solid Waste Reduction Commission in the issuance of rules to implement this subchapter.

(b) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(Mar. 16, 1978, D.C. Law 2-64, § 24, as added Mar. 8, 1991, D.C. Law 8-229, title I, § 102(c), 38 DCR 246.)

**Cross references.** — Motor vehicles, moving infractions, application of law, see § 50-2302.01.

Motor vehicles and traffic, uniform classifica-

tion and commercial drivers' licenses, "commercial motor vehicle" defined, see § 50-401.

**Section references.** — This section is referenced in § 8-1318 and § 8-1320.

**Prior Codifications.** — 1981 Ed., § 6-738. legislative history of D.C. Law 8-229, see Historical and Statutory Notes following § 8-1315.  
**Legislative history of Law 8-229.** — For



## CHAPTER 14. HAZARDOUS MATERIALS TRANSPORTATION.

*Subchapter I. General*

- Sec.  
 8-1401. Findings and purposes.  
 8-1402. Definition.  
 8-1403. Hazardous Materials Transportation Program.  
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 8-1403.02. Consent to inspection.  
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- 8-1421. Findings.  
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*Subchapter III. Strict Liability for Release of Hazardous Materials During Transport*

- 8-1441. Definitions.  
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 8-1443. Costs recoverable by the District of Columbia.  
 8-1444. Civil action.  
 8-1445. Defenses to liability.  
 8-1446. Punitive damages.  
 8-1447. Establishment of Hazardous Materials Reimbursement Fund.

*Subchapter I. General.***§ 8-1401. Findings and purposes.**

The Council of the District of Columbia makes the following findings and supports the following purposes:

(1) Many shipments of hazardous materials are made in the District of Columbia ("District");

(2) The District is 1 of the few states that has not adopted the federal regulations governing the transportation of hazardous materials and motor carrier safety;

(3) According to statistics compiled by the federal Environmental Protection Agency, there have been 30 incidents involving the unintentional release of hazardous materials in transport in the District since 1985, none of which have been required by law to be reported to the District government;

(4) There have been a growing number of incidents involving the transportation of hazardous materials on highways surrounding the District in recent months;

(5) According to the United States Department of Transportation, there is an insufficient number of federal inspectors available to inspect vehicles transporting hazardous materials, causing many vehicles to go uninspected unless the states have regulations enabling them to carry out inspections;

(6) The District does not have a procedure for inspecting the safety of commercial motor vehicles that transport hazardous materials in the city, nor for monitoring the condition of the operators of those vehicles;

(7) Until the District adopts a system consistent with the federal motor carrier safety regulations that govern commercial motor vehicles, including those transporting hazardous materials, the District is ineligible to receive at least \$225,000 per year in federal grant assistance for implementing the regulations;

(8) Other costs to the District associated with enforcing this chapter

should be the responsibility of those who transport hazardous materials in the District;

(9) The Hazardous Materials Study Commission will no longer be necessary since the Commission's mandate will be executed through the implementation of this chapter; and

(10) Residents of and visitors to the District should be protected from the serious risks associated with improper transportation of hazardous materials, overworked operators, and unsuitable maintenance of commercial motor vehicles, including vehicles transporting hazardous materials.

(Mar. 16, 1989, D.C. Law 7-190, § 2, 35 DCR 8663.)

**Prior Codifications.** — 1981 Ed., § 6-3301.

**Legislative history of Law 7-190.** — Law 7-190, the "District of Columbia Hazardous Materials Transportation and Motor Carrier Safety Act of 1988," was introduced in Council and assigned Bill No. 7-20, which was referred to the Committee on Public Works. The Bill was

adopted on first and second readings on October 25, 1988 and November 15, 1988, respectively. Signed by the Mayor on December 1, 1988, it was assigned Act No. 7-252 and transmitted to both Houses of Congress for its review.

## § 8-1402. Definition.

For the purposes of this chapter, the term "hazardous materials" means substances or materials in a quantity and form that may pose an unreasonable risk to health, safety, or property when transported in commerce and includes explosives, radioactive materials, etiological agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, or compressed gases.

(Mar. 16, 1989, D.C. Law 7-190, § 3, 35 DCR 8663.)

**Prior Codifications.** — 1981 Ed., § 6-3302.

**Legislative history of Law 7-190.** — For

legislative history of D.C. Law 7-190, see Historical and Statutory Notes following § 8-1401.

## § 8-1403. Hazardous Materials Transportation Program.

The Mayor shall establish a Hazardous Materials Transportation Program that shall include at a minimum:

(1) A description of the criteria for determining what materials constitute hazardous materials that is consistent with the federal hazardous materials transportation regulations of the United States Department of Transportation;

(2) The identification of the types and quantities of hazardous materials transported in the District;

(3) The identification of the carriers and shippers of the hazardous materials;

(4) A designation of primary and alternate routes for the transportation of hazardous materials in the District consistent with the federal hazardous materials transportation regulations and the federal motor carrier safety regulations of the United States Department of Transportation and taking into consideration factors that will ensure the highest degree of safety to individuals and property, including the following:

(A) Population density along the primary and alternate routes;

(B) Traffic and street conditions, including dimensions of streets and alleys;

(C) The ability to evacuate individuals in the vicinity of the primary and alternate routes should evacuation become necessary;

(D) The type and quantity of hazardous materials being transported;

(E) Whether the hazardous materials are route-controlled quantities of radioactive materials consistent with the federal hazardous materials transportation regulations; and

(F) Consistency, to the extent practicable, with the laws and regulations of adjacent states and local jurisdictions likely to be affected by the route selections;

(5) A system governing the transportation, packaging, labelling, and placarding of hazardous materials transported in the District consistent with the federal hazardous materials transportation regulations;

(6) A system to ensure motor carrier safety consistent with the federal motor carrier safety regulations that will qualify the District for federal grant assistance to implement this chapter;

(7) The inspection of commercial motor vehicles, including vehicles that transport hazardous materials in the District consistent with the federal hazardous materials transportation regulations and federal motor safety carrier regulations;

(8) Repealed.

(Mar. 16, 1989, D.C. Law 7-190, § 4, 35 DCR 8663; Oct. 1, 1992, D.C. Law 9-173, § 3(a), 39 DCR 5834.)

**Prior Codifications.** — 1981 Ed., § 6-3303.

**Legislative history of Law 7-190.** — For legislative history of D.C. Law 7-190, see Historical and Statutory Notes following § 8-1401.

**Legislative history of Law 9-173.** — For legislative history of D.C. Law 9-173, see Historical and Statutory Notes following § 8-1403.01.

## § 8-1403.01. Stops and inspection.

To determine compliance with this chapter and its implementing regulations, a police officer may stop the driver of a motor vehicle and enter upon the premises of a motor carrier that is regulated pursuant to this chapter and inspect any of the following:

(1) All equipment, parts, and accessories, including carrier maintenance, certification, and safety records;

(2) All driver records, including driver's license, permits, hours of service records, certificate of physical examination, and training records;

(3) All manifests, including bills of lading or other shipping documents; and

(4) All cargo and cargo areas, including the removal of cargo seals when necessary to conduct a safety inspection.

(Mar. 16, 1989, D.C. Law 7-190, § 4(a), as added Oct. 1, 1992, D.C. Law 9-173, § 3(b), 39 DCR 5834.)



**Section references.** — This section is referenced in § 8-1403.02.

**Prior Codifications.** — 1981 Ed., § 6-3303.1.

**Legislative history of Law 9-173.** — Law 9-173, the “Traffic Adjudication and Motor Carrier Safety Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-501,

which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on June 23, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 23, 1992, it was assigned Act No. 9-271 and transmitted to both Houses of Congress for its review. D.C. Law 9-173 became effective on October 1, 1992.

## § 8-1403.02. Consent to inspection.

(a) The operation of a vehicle subject to this chapter and its implementing regulations on any highway or roadway in the District shall constitute the consent of the driver and the owner of the vehicle to the inspection pursuant to § 8-1403.01.

(b) The driver of a vehicle shall obey every sign and every direction of a police officer to stop the vehicle and submit to an inspection.

(Mar. 16, 1989, D.C. Law 7-190, § 4(b), as added Oct. 1, 1992, D.C. Law 9-173, § 3(b), 39 DCR 5834.)

**Prior Codifications.** — 1981 Ed., § 6-3303.2.

**Legislative history of Law 9-173.** — For

legislative history of D.C. Law 9-173, see Historical and Statutory Notes following § 8-1403.01.

## § 8-1404. Penalties.

(a) Violations of this chapter or any rule promulgated pursuant to § 8-1405 shall be adjudicated as provided by Chapter 23 of Title 50.

(b) The Mayor, by rule, may establish civil fines and penalties for violations of this chapter or any rule promulgated pursuant to § 8-1405.

(c)(1) As an alternative sanction, any person who knowingly or willfully violates this chapter, or any rule promulgated pursuant to § 8-1405 shall be subject to a fine of not less than \$100 and not more than \$10,000, imprisonment not to exceed 1 year for each violation, or both. Each day shall constitute a separate violation and the penalties prescribed shall be applicable to each violation.

(2) Prosecution for violations of this subsection shall be brought by the Corporation Counsel.

(Mar. 16, 1989, D.C. Law 7-190, § 5, 35 DCR 8663; Oct. 1, 1992, D.C. Law 9-173, § 3(c), 39 DCR 5834.)

**Prior Codifications.** — 1981 Ed., § 6-3304.

**Legislative history of Law 7-190.** — For legislative history of D.C. Law 7-190, see Historical and Statutory Notes following § 8-1401.

**Legislative history of Law 9-173.** — For legislative history of D.C. Law 9-173, see Historical and Statutory Notes following § 8-1403.01.

## § 8-1404.01. Reimbursements.

(a) The owner of any hazardous material motor carrier that releases a hazardous material shall reimburse the District for all expenditures made by the District to contain, remove, or respond to such a release.

(b) The Mayor shall notify by certified mail the owner of any hazardous material motor carrier that releases a hazardous material of the costs incurred by the District to contain, remove, or respond to the release.

(c) If the owner of the hazardous material motor carrier does not reimburse the District for all expenditures made to contain, remove, or respond to the release, within 10 days of the posting of notice by the Mayor, the Corporation Counsel may bring a civil action to seek reimbursement from the owner of the motor carrier.

(Mar. 16, 1989, D.C. Law 7-190, § 5(a), as added Oct. 1, 1992, D.C. Law 9-173, § 3(d), 39 DCR 5834.)

**Prior Codifications.** — 1981 Ed., § 6-3304.1.

legislative history of D.C. Law 9-173, see Historical and Statutory Notes following § 8-1403.01.

**Legislative history of Law 9-173.** — For

## § 8-1405. Rules.

Within 6 months of March 16, 1989, the Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement the provisions of this chapter. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(Mar. 16, 1989, D.C. Law 7-190, § 6, 35 DCR 8663.)

**Section references.** — This section is referenced in § 8-1404.

**Prior Codifications.** — 1981 Ed., § 6-3305.

**Legislative history of Law 7-190.** — For legislative history of D.C. Law 7-190, see Historical and Statutory Notes following § 8-1401.

**Delegation of Authority.** — Delegation of authority under D.C. Law 7-190, the “D.C. Hazardous Materials Transportation & Motor Carrier Safety Act of 1988”, see Mayor’s Order 89-169, July 25, 1989.

## *Subchapter II. Terrorism Prevention in Hazardous Materials Transportation.*

## § 8-1421. Findings.

The Council of the District of Columbia finds that:

(1) A terrorist attack on a large-quantity hazardous material shipment near the United States Capitol (“Capitol”) would be expected to cause tens of thousands of deaths and a catastrophic economic impact of \$5 billion or more.

(2) The threat of terrorism facing District of Columbia residents and workers in the vicinity of the Capitol requires an urgent response that recognizes and addresses the unique status of this area in American politics and history, and the risk of terrorism that results from this status.

(3) While the federal government has occupied the field of en route security and routing in the aviation context, it has not addressed the subject of rail car routing for security purposes. Moreover, the federal government has

not acted to address the terrorist threat resulting from the transportation of ultra-hazardous materials within 2 miles of the Capitol, the White House, and the United States Supreme Court, unique terrorist targets.

(4) Shippers of ultra-hazardous materials do not need to route large quantities of ultra-hazardous chemicals near the Capitol in order to ship these chemicals to their destinations, and alternative routes would substantially decrease the aggregate risk posed by terrorist attacks.

(5) Requiring permits for ultra-hazardous shipments from a Capitol Exclusion Zone that encompasses all points within 2.2 miles of the Capitol would impose no significant burden on interstate commerce.

(Apr. 4, 2006, D.C. Law 16-80, § 2, 53 DCR 1047.)

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 2 of Terrorism Prevention in Hazardous Materials Transportation Temporary Act of 2005 (D.C. Law 16-2, May 14, 2005, law notification 52 DCR 5425).

**Emergency legislation.** — For temporary (90 day) addition, see § 2 of Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (D.C. Act 16-43, February 15, 2005, 52 DCR 3048).

For temporary (90 day) addition, see § 2 of Terrorism Prevention in Hazardous Materials Transportation Congressional Review Emergency Act of 2005 (D.C. Act 16-90, June 1, 2005, 52 DCR 5428).

For temporary (90 day) addition, see § 2 of Second Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (D.C. Act 16-236, December 22, 2005, 53 DCR 245).

For temporary (90 day) addition, see § 2 of Terrorism Prevention in Hazardous Materials Transportation Congressional Review Emergency Act of 2006 (D.C. Act 16-325, March 23, 2006, 53 DCR 2576).

**Legislative history of Law 16-80.** — Law 16-80, the “Terrorism Prevention in Hazardous Materials Transportation Act of 2005”, was introduced in Council and assigned Bill No. 16-79 which was referred to the Committee on Public Works and Environment. The Bill was adopted on first and second readings on December 6, 2005, and January 4, 2006, respectively. Signed by the Mayor on January 26, 2006, it was assigned Act No. 16-266 and transmitted to both Houses of Congress for its review. D.C. Law 16-80 became effective on April 4, 2006.

**Delegation of Authority.** — Delegation of Authority Pursuant to the Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 to the Director of the District of Columbia Department of Transportation, see Mayor’s Order 2005-34, February 22, 2005 (52 DCR 2856).

Amendment of Delegation of Authority Pursuant to the Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 to the Director of the District of Columbia Department of Transportation, see Mayor’s Order 2005-74, May 5, 2005 (52 DCR 5503).

## CASE NOTES

### In general.

In action brought by exclusive rail carrier of hazardous materials through District of Columbia (DC) to enjoin enforcement of law which would prohibit rail or truck transport of certain hazardous materials within a 2.2 mile zone around United States Capitol Building, factual development was necessary to determine whether DC’s Terrorism Prevention Act was preempted by the Federal Railroad Safety Act (FRSA) and, therefore, federal government

would be required to produce all non-privileged documents and information reasonably calculated to lead to discovery of admissible evidence regarding whether federal government prescribed regulation or issued order covering subject matter of DC requirement within meaning of FRSA and whether DC requirement was incompatible with law, regulation, or order of United States Government. *CSX Transp., Inc. v. Williams*, 231 F.R.D. 42, 2005 U.S. Dist. LEXIS 21108 (2005).

## § 8-1422. Definitions.

For the purposes of this subchapter, the term:

(1) “Capitol Exclusion Zone” means all points within 2.2 miles of the



United States Capitol Building; provided, that the Capitol Exclusion Zone shall not extend beyond the geographic boundaries of the District of Columbia.

(2) “Emergency” means an unanticipated, temporary situation that threatens the immediate safety of individuals or property, as determined by the District Department of Transportation.

(3) “Person” means an individual or a commercial entity.

(4) “Practical alternative route” means a route:

(A) Which lies entirely outside the Capitol Exclusion Zone; and

(B) Whose use would not make shipment of the materials in question cost-prohibitive.

(Apr. 4, 2006, D.C. Law 16-80, § 3, 53 DCR 1047.)

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 3 of Terrorism Prevention in Hazardous Materials Transportation Temporary Act of 2005 (D.C. Law 16-2, May 14, 2005, law notification 52 DCR 5425).

**Emergency legislation.** — For temporary (90 day) addition, see § 3 of Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (D.C. Act 16-43, February 15, 2005, 52 DCR 3048).

For temporary (90 day) addition, see § 3 of Terrorism Prevention in Hazardous Materials Transportation Congressional Review Emer-

gency Act of 2005 (D.C. Act 16-90, June 1, 2005, 52 DCR 5428).

For temporary (90 day) addition, see § 3 of Second Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (D.C. Act 16-236, December 22, 2005, 53 DCR 245).

For temporary (90 day) addition, see § 3 of Terrorism Prevention in Hazardous Materials Transportation Congressional Review Emergency Act of 2006 (D.C. Act 16-325, March 23, 2006, 53 DCR 2576).

**Legislative history of Law 16-80.** — For Law 16-80, see notes following § 8-1421.

## § 8-1423. Prohibition on shipments of hazardous materials.

Except in cases of emergency, it shall be illegal in the Capitol Exclusion Zone, without a permit, to:

(1) Transport any of the following:

(A) Explosives of Class 1, Division 1.1, or Class 1, Division 1.2, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 kilograms;

(B) Flammable gasses of Class 2, Division 2.1, as designated in 49 C.F.R. § 173.2, in a quantity greater than 10,000 liters;

(C) Poisonous gasses of Class 2, Division 2.3, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 liters, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.116; and

(D) Poisonous materials, other than gasses, of Class 6, Division 6.1, in a quantity greater than 1,000 kilograms, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.133; or

(2) Operate a vehicle or move a rail car which:

(A) Is capable of containing explosives of Class 1, Division 1.1, or Class 1, Division 1.2, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 kilograms, and has exterior placarding or other markings indicating that it contains such materials;

(B) Is capable of containing flammable gasses of Class 2, Division 2.1, as designated in 49 C.F.R. § 173.2, in a quantity greater than 10,000 liters,

and has exterior placarding or other markings indicating that it contains such materials;

(C) Is capable of containing poisonous gasses of Class 2, Division 2.3, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 liters, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.116, and has exterior placarding or other markings indicating that it contains such materials; or

(D) Is capable of containing poisonous materials, other than gasses, of Class 6, Division 6.1, in a quantity greater than 1,000 kilograms, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.133, and has exterior placarding or other markings indicating that it contains such materials.

(Apr. 4, 2006, D.C. Law 16-80, § 4, 53 DCR 1047.)

**Section references.** — This section is referenced in § 8-1424 and § 8-1425.

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 4 of Terrorism Prevention in Hazardous Materials Transportation Temporary Act of 2005 (D.C. Law 16-2, May 14, 2005, law notification 52 DCR 5425).

**Emergency legislation.** — For temporary (90 day) addition, see § 4 of Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (D.C. Act 16-43, February 15, 2005, 52 DCR 3048).

For temporary (90 day) addition, see § 4 of Terrorism Prevention in Hazardous Materials

Transportation Congressional Review Emergency Act of 2005 (D.C. Act 16-90, June 1, 2005, 52 DCR 5428).

For temporary (90 day) addition, see § 4 of Second Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (D.C. Act 16-236, December 22, 2005, 53 DCR 245).

For temporary (90 day) addition, see § 4 of Terrorism Prevention in Hazardous Materials Transportation Congressional Review Emergency Act of 2006 (D.C. Act 16-325, March 23, 2006, 53 DCR 2576).

**Legislative history of Law 16-80.** — For Law 16-80, see notes following § 8-1421.

## § 8-1424. Permits.

(a) The District Department of Transportation may issue permits authorizing the transportation of materials listed in § 8-1423 upon a demonstration that there is no practical alternative route. A permit may require adoption of safety measures, including time-of-day restrictions.

(b) The District Department of Transportation may collect fees for the permits in accordance with the rules issued under § 8-1426.

(c) Permit fees collected pursuant to this section shall not exceed the cost of implementing and enforcing this subchapter.

(Apr. 4, 2006, D.C. Law 16-80, § 5, 53 DCR 1047.)

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 5 of Terrorism Prevention in Hazardous Materials Transportation Temporary Act of 2005 (D.C. Law 16-2, May 14, 2005, law notification 52 DCR 5425).

**Emergency legislation.** — For temporary (90 day) addition, see § 5 of Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (D.C. Act 16-43, February 15, 2005, 52 DCR 3048).

For temporary (90 day) addition, see § 5 of Terrorism Prevention in Hazardous Materials Transportation Congressional Review Emergency Act of 2005 (D.C. Act 16-90, June 1, 2005, 52 DCR 5428).

For temporary (90 day) addition, see § 5 of Second Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (D.C. Act 16-236, December 22, 2005, 53 DCR 245).

For temporary (90 day) addition, see § 5 of

Terrorism Prevention in Hazardous Materials Transportation Congressional Review Emergency Act of 2006 (D.C. Act 16-325, March 23, 2006, 53 DCR 2576).

**Legislative history of Law 16-80.** — For Law 16-80, see notes following § 8-1421.

## § 8-1425. Penalties.

(a) Any person who violates § 8-1423 or rules issued under § 8-1426 shall be subject to a civil penalty not to exceed:

- (1) \$10,000 for a first offense; or
- (2) \$25,000 for any subsequent offense.

(b) The fines assessed and collected under subsection (a) of this section shall be deposited into the General Fund of the District of Columbia.

(Apr. 4, 2006, D.C. Law 16-80, § 6, 53 DCR 1047.)

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 6 of Terrorism Prevention in Hazardous Materials Transportation Temporary Act of 2005 (D.C. Law 16-2, May 14, 2005, law notification 52 DCR 5425).

**Emergency legislation.** — For temporary (90 day) addition, see § 6 of Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (D.C. Act 16-43, February 15, 2005, 52 DCR 3048).

For temporary (90 day) addition, see § 6 of Terrorism Prevention in Hazardous Materials Transportation Congressional Review Emer-

gency Act of 2005 (D.C. Act 16-90, June 1, 2005, 52 DCR 5428).

For temporary (90 day) addition, see § 6 of Second Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (D.C. Act 16-236, December 22, 2005, 53 DCR 245).

For temporary (90 day) addition, see § 6 of Terrorism Prevention in Hazardous Materials Transportation Congressional Review Emergency Act of 2006 (D.C. Act 16-325, March 23, 2006, 53 DCR 2576).

**Legislative history of Law 16-80.** — For Law 16-80, see notes following § 8-1421.

## § 8-1426. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, and in consultation with the District of Columbia Department of Transportation, the Emergency Management Agency, the Fire and Emergency Medical Services Department, and the Metropolitan Police Department, shall issue rules to implement the provisions of this subchapter, including a schedule of permit fees to support analysis, communications to shippers and carriers, and the enforcement program.

(Apr. 4, 2006, D.C. Law 16-80, § 7, 53 DCR 1047.)

**Section references.** — This section is referenced in § 8-1424 and § 8-1425.

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 7 of Terrorism Prevention in Hazardous Materials Transportation Temporary Act of 2005 (D.C. Law 16-2, May 14, 2005, law notification 52 DCR 5425).

**Emergency legislation.** — For temporary (90 day) addition, see § 7 of Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (D.C. Act 16-43, February 15, 2005, 52 DCR 3048).

For temporary (90 day) addition, see § 7 of

Terrorism Prevention in Hazardous Materials Transportation Congressional Review Emergency Act of 2005 (D.C. Act 16-90, June 1, 2005, 52 DCR 5428).

For temporary (90 day) addition, see § 7 of Second Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (D.C. Act 16-236, December 22, 2005, 53 DCR 245).

For temporary (90 day) addition, see § 7 of Terrorism Prevention in Hazardous Materials Transportation Congressional Review Emergency Act of 2006 (D.C. Act 16-325, March 23, 2006, 53 DCR 2576).



**Legislative history of Law 16-80.** — For Law 16-80, see notes following § 8-1421.

*Subchapter III. Strict Liability for Release of Hazardous Materials During Transport.*

**§ 8-1441. Definitions.**

For the purposes of this subchapter, the term:

(1) “Carrier” means the person who owns the locomotive or motor vehicle, excluding the trailer or rail car, used in transporting any of the hazardous materials identified in § 8-1442.

(2) “Fund” means the Hazardous Materials Reimbursement Fund established by § 8-1447.

(3) “Motor vehicle” means any vehicle propelled by internal-combustion engine, electricity, or steam, other than a vehicle designed to run only on rails or tracks, that is intended or used for moving freight, merchandise, or other commercial loads or property. The term “motor vehicle” shall include any trailer attached to the motor vehicle.

(4) “Person” shall have the same meaning as in § 8-1302(5).

(5) “Rail car” means any vehicle without motor power that is intended or used for moving freight, merchandise, or other commercial loads or property on rails or tracks and is drawn by a locomotive.

(6) “Trailer” means a vehicle without motor power intended or used for carrying freight, merchandise, or other commercial loads or property and drawn or intended to be drawn by a motor vehicle, whether such vehicle without motor power carries the weight of the property wholly on its own structure or whether a part of such weight rests upon or is carried by a motor vehicle.

(7) “Transport” means movement by a rail car or motor vehicle.

(Mar. 14, 2007, D.C. Law 16-262, § 301, 54 DCR 794.)

**Legislative history of Law 16-262.** — Law 16-262, the “Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-242, which was referred to Committee on Judiciary. The Bill was adopted on first

and second readings on December 5, 2006, and December 19, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-618 and transmitted to both Houses of Congress for its review. D.C. Law 16-262 became effective on March 14, 2007.

**§ 8-1442. Strict liability for release of hazardous materials during transport.**

Subject only to the exclusions and limitations set forth in §§ 8-1444 and 8-1445, and in addition to any other remedies available to the government of the District of Columbia, a carrier who transports into the District any of the hazardous materials listed in this section shall be strictly liable for all costs incurred by the District of Columbia in responding to a release or threatened release of any of the following within the geographic boundaries of the District of Columbia:

(1) Explosives of Class 1, Division 1.1, or Class 1, Division 1.2, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 kilograms;

(2) Flammable gasses of Class 2, Division 2.1, as designated in 49 C.F.R. § 173.2, in a quantity greater than 10,000 liters;

(3) Poisonous gasses of Class 2, Division 2.3, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 liters, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.116;

(4) Poisonous materials, other than gasses, of Class 6, Division 6.1, in a quantity greater than 1,000 kilograms, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.133;

(5) Infectious agents, assigned to risk group 4 in 49 C.F.R. § 173.134 unless the infectious agent is the subject of an exception identified in 49 C.F.R. § 173.134; and

(6) Radioactive materials in a concentration greater than that specified by the United States Nuclear Regulatory Commission in 10 C.F.R. § 30.70 (exempt concentrations), or in a quantity required to be labeled under 10 C.F.R. Part 30, Appendix B, or requiring the consideration of the need for an emergency plan for responding to a release under 10 C.F.R. § 30.72.

(Mar. 14, 2007, D.C. Law 16-262, § 302, 54 DCR 794.)

**Section references.** — This section is referenced in § 8-1441, § 8-1443, § 8-1444, § 8-1445, § 8-1446, and § 8-1447.

**Legislative history of Law 16-262.** — For Law 16-262, see notes following § 8-1441.

## § 8-1443. Costs recoverable by the District of Columbia.

Costs recoverable by the District of Columbia under § 8-1442 shall include all costs related to:

(1) Containment of the gasses, explosives, and materials identified in § 8-1442;

(2) Necessary cleanup and restoration of the site and the surrounding environment;

(3) Removal of the gasses, explosives, and materials identified in § 8-1442;

(4) Such actions as may be necessary to monitor, assess, and evaluate the release or threat of release of any of the gasses, explosives, and materials identified in § 8-1442, or to mitigate damage to the public health or welfare that may otherwise result from a release or threat of a release;

(5) Natural resource damages;

(6) Attorney's fees and costs;

(7) Reimbursement for private collection firm's services, when used; and

(8) Applicable interest on all costs and expenses incurred.

(Mar. 14, 2007, D.C. Law 16-262, § 303, 54 DCR 794.)

**Section references.** — This section is referenced in § 8-1444.

**Legislative history of Law 16-262.** — For Law 16-262, see notes following § 8-1441.

§ 8-1444. **Civil action.**

(a) The Attorney General of [for] the District of Columbia may institute an action in the Superior Court of the District of Columbia against any person liable pursuant to § 8-1442 to recover all costs incurred by the District of Columbia.

(b) Notwithstanding the rights of the District of Columbia to institute an action as provided in subsection (a) of this section, any person who has expended funds to remedy environmental damage resulting from the release of any of the gasses, explosive, or materials identified in § 8-1442 may also bring an action in the Superior Court of the District of Columbia against any person who may be liable for such damage pursuant to § 8-1442. Such person's right to recover costs shall be limited to expenditures that are incurred for the purposes described in § 8-1443 and that are consistent with the laws and rules of the District of Columbia. A person's right to recovery under this subsection shall not be barred by the fact that the party bringing the action is itself liable to the District of Columbia under this section.

(Mar. 14, 2007, D.C. Law 16-262, § 304, 54 DCR 794.)

**Section references.** — This section is referenced in § 8-1442.

**Legislative history of Law 16-262.** — For Law 16-262, see notes following § 8-1441.

§ 8-1445. **Defenses to liability.**

There shall be no liability under § 8-1442 for a person otherwise liable who can establish by a preponderance of the evidence that the costs resulting from their acts or omissions were caused solely by:

- (1) An act of God;
- (2) An act of War;
- (3) An act or omission of a third party other than an employee or agent of the defendant, or other than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant, if the defendant establishes by a preponderance of the evidence that the defendant:

(A) Exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of such hazardous substance, in light of all relevant facts and circumstances; and

(B) Took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions; or

- (4) Any combination of the foregoing paragraphs.

(Mar. 14, 2007, D.C. Law 16-262, § 305, 54 DCR 794; Mar. 25, 2009, D.C. Law 17-353, § 157(d), 56 DCR 1117.)

**Section references.** — This section is referenced in § 8-1442.

**Effect of amendments.** — D.C. Law 17-353 validated a previously made technical correction.

**Legislative history of Law 16-262.** — For Law 16-262, see notes following § 8-1441.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 8-635.01.



**§ 8-1446. Punitive damages.**

In addition to the damages authorized elsewhere in this subchapter, punitive damages may be awarded, if it is proved that the plaintiff's injuries were caused by the defendant's wanton or reckless disregard for public safety in the transportation of the gasses, explosives, and materials identified in § 8-1442.

(Mar. 14, 2007, D.C. Law 16-262, § 306, 54 DCR 794.)

**Legislative history of Law 16-262.** — For Law 16-262, see notes following § 8-1441.

**§ 8-1447. Establishment of Hazardous Materials Reimbursement Fund.**

(a) There is established within the General Fund of the District of Columbia a segregated, nonlapsing fund to be known as the Hazardous Materials Reimbursement Fund. All funds as set forth in subsection (b) of this section shall be deposited into the Fund without regard to fiscal year limitation and shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section. The Fund shall be administered by the Mayor.

(b) The Chief Financial Officer shall deposit into the Fund all costs recovered by the District of Columbia pursuant to this subchapter.

(c) All funds deposited shall be available for use by the Mayor to reimburse District of Columbia agencies for costs incurred by the release or threatened release of the hazardous materials identified in § 8-1442.

(Mar. 14, 2007, D.C. Law 16-262, § 307, 54 DCR 794.)

**Section references.** — This section is referenced in § 8-1441.

**Legislative history of Law 16-262.** — For Law 16-262, see notes following § 8-1441.

## CHAPTER 15. LOW-LEVEL RADIOACTIVE WASTE GENERATOR REGULATORY POLICY.

Sec.  
8-1501. Definitions.  
8-1502. Reports.  
8-1503. Registration; fee.

Sec.  
8-1504. [Repealed].  
8-1505. Citizen right of action.  
8-1506. Rules.

### § 8-1501. Definitions.

For the purpose of this chapter, the term:

(1) "Disposal" means the permanent isolation of low-level radioactive waste as a regional disposal facility as defined in section 2 of the Low-level Radioactive Waste Policy Act, approved December 23, 1980 (94 Stat. 3347; 42 U.S.C. § 2021b) ("Waste Policy Act").

(2) "Generator" means any public or private individual, institution, corporation, association, group, or other legally constituted enterprise that produces low-level radioactive waste in the District of Columbia ("District").

(3) "Low-level radioactive waste ('waste')" means radioactive material that:

(A) Is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or byproduct material as defined in section 11e of the Atomic Energy Act of 1954, approved August 30, 1954 (68 Stat. 923; 42 U.S.C. § 2014(e)); and

(B) The United States Nuclear Regulatory Commission has classified, consistent with 10 C.F.R. 61.55, as low-level radioactive waste.

(4) "Regional facility" means a low-level radioactive waste disposal facility in operation on January 1, 1985, or subsequently established and operated pursuant to the Waste Policy Act.

(Mar. 7, 1991, D.C. Law 8-226, § 2, 38 DCR 219.)

**Prior Codifications.** — 1981 Ed., § 6-3701.

**Legislative history of Law 8-226.** — Law 8-226, the "District of Columbia Low-Level Radioactive Waste Generator Regulatory Policy Act of 1990," was introduced in Council and assigned Bill No. 8-378, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-309 and transmitted to both Houses of Congress for its review.

**References in text.** — The definition of

low-level radioactive waste disposal facility in the Waste Policy Act, referred to in (4), is codified at 42 U.S.C. 2021b(11).

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 8-226, the "District of Columbia Low-level Radioactive Waste Generator Regulatory Policy Act of 1990", see Mayor's Order 94-102, April 28, 1994 (41 DCR 2523).

Delegation of authority pursuant to D.C. Law 8-226, the "District of Columbia Low-Level Radioactive Waste Generator Regulatory Policy Act of 1990", see Mayor's Order 98-52, April 15, 1998 (45 DCR 2698).

### § 8-1502. Reports.

(a) Pursuant to rules issued by the Mayor in accordance with § 8-1506, by May 15, 1991, and on February 1 of each subsequent year, any person who generates low-level radioactive waste in the District shall submit to the Mayor a report that details for the previous calendar year:

(1) The class and quantity of any waste generated, stored by the generator

for decay or for later transfer to another facility, or transferred by the generator to another facility;

(2) The general type of generator (e.g., medical, university, industry, electric, utility, government, or nonprofit);

(3) Any additional information as the Mayor may require on the nature and characteristics of the waste (including chemical and physical characteristics, properties, or constituents, radionuclides present, curie content or concentration of radioactivity); and

(4) The extent of reduction in quantity and the nature and extent of reduction or other change in nature of characteristics of the waste as a result of treatment or interim storage after generation and before delivery to a facility for permanent disposal of the waste.

(b) The Mayor shall, pursuant to rules issued in accordance with § 8-1506, provide the appropriate procedures for the preparation and submission of the report when more than one person is the generator of the same waste.

(c) Any generator who fails to report as required by this section shall be fined an amount not to exceed \$5,000 for each day of noncompliance and may be required to forfeit any right, license, permit, or privilege to possess radioactive materials in the District.

(d) Beginning on July 1, 1991, and on April 1 of each subsequent year, the Mayor shall submit to the Council of the District of Columbia, a report that summarizes and categorizes by type of generator, the nature, characteristic, and quantity of waste generated in the District during the previous calendar year.

(Mar. 7, 1991, D.C. Law 8-226, § 3, DCR 219; Apr. 18, 1996, D.C. Law 11-110, § 17, 43 DCR 530.)

**Prior Codifications.** — 1981 Ed., § 6-3702.

**Legislative history of Law 8-226.** — For legislative history of D.C. Law 8-226, see Historical and Statutory Notes following § 8-1501.

**Legislative history of Law 11-110.** — Law 11-110, the “Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed

by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 8-226, the District of Columbia Low-Level Radioactive Waste Generator Regulatory Policy Act of 1990, see Mayor’s Order 2007-126, May 31, 2007 (54 DCR 9065).

## § 8-1503. Registration; fee.

(a) Pursuant to rules issued by the Mayor in accordance with § 8-1506, beginning in 1991, any person who generates waste in the District shall register annually with the Mayor on a form prescribed by the Mayor and pay an annual registration fee to be established by the Mayor. Any generator who fails to register as required by this section shall be fined an amount not to exceed \$5,000 for each day of noncompliance and may be required to forfeit any right, license, permit, or privilege to possess radioactive materials in the District.

(b) Any registration issued pursuant to this section shall be issued as a



Public Health: Radioactive Equipment endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(Mar. 7, 1991, D.C. Law 8-226, § 4, 38 DCR 219; Apr. 20, 1999, D.C. Law 12-261, § 2003(n), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(n), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 6-3703.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted “Public Health: Radioactive Equipment endorsement to a basic business license under the basic” for “Class A Public Health: Radioactive Equipment endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(n) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 8-226.** — For legislative history of D.C. Law 8-226, see Historical and Statutory Notes following § 8-1501.

**Legislative history of Law 12-261.** — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 8-111.03.

## § 8-1504. Fund; assessment. [Repealed].

Repealed.

(Mar. 7, 1991, D.C. Law 8-226, § 5, 38 DCR 219; Sept. 14, 2011, D.C. Law 19-21, § 9069, 58 DCR 6226.)

**Prior Codifications.** — 1981 Ed., § 6-3704.

**Legislative history of Law 8-226.** — For legislative history of D.C. Law 8-226, see Historical and Statutory Notes following § 8-1501.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 8-102.03.

## § 8-1505. Citizen right of action.

Any person aggrieved by the failure of a generator of low-level radioactive waste in the District to comply with this chapter may sue for relief in any court of competent jurisdiction. The court may grant any declaratory or injunctive relief it deems necessary. Reasonable attorney’s fees and court costs may be awarded to the prevailing party, other than the District government, for actions brought under this section.

(Mar. 7, 1991, D.C. Law 8-226, § 6, 38 DCR 219.)

**Prior Codifications.** — 1981 Ed., § 6-3705.

**Legislative history of Law 8-226.** — For

legislative history of D.C. Law 8-226, see Historical and Statutory Notes following § 8-1501.

## § 8-1506. Rules.

By May 1, 1991, the Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement the provisions of this chapter including rules regarding rates, fee and payment schedules, registration forms, reporting

guidelines, and other operational provisions deemed necessary to fully implement and enforce the provisions of this chapter.

(Mar. 7, 1991, D.C. Law 8-226, § 7, 38 DCR 219.)

**Section references.** — This section is referenced in § 8-1502 and § 8-1503.

**Prior Codifications.** — 1981 Ed., § 6-3706.

**Legislative history of Law 8-226.** — For legislative history of D.C. Law 8-226, see Historical and Statutory Notes following § 8-1501.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 8-226, the District of Columbia Low-Level Radioactive Waste Generator Regulatory Policy Act of 1990, see Mayor's Order 2007-126, May 31, 2007 (54 DCR 9065).

SUBTITLE D. SOIL AND WATER CONSERVATION.

CHAPTER 16. POTOMAC RIVER BASIN COMPACT.

Sec.

8-1601. Consent of Congress to compact; rights reserved by Congress.

8-1602. Consent of Congress to amended com-

pact; authority of Mayor of the District of Columbia; rights reserved by Congress.

**§ 8-1601. Consent of Congress to compact; rights reserved by Congress.**

(a) The consent of Congress is hereby given to the States of Maryland and West Virginia and the Commonwealths of Virginia and Pennsylvania and the District of Columbia to enter into the compact to create a Potomac Valley Conservancy District and to establish an Interstate Commission on the Potomac River Basin, and to each and every part and article thereof; provided, that nothing contained in such compact shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of this compact.

(b) The right to alter, amend, or repeal this section is hereby expressly reserved.

(July 11, 1940, 54 Stat. 748, ch. 579.)

**Prior Codifications.** — 1981 Ed., § 7-1301. 1973 Ed., § 7-1501.

**§ 8-1602. Consent of Congress to amended compact; authority of Mayor of the District of Columbia; rights reserved by Congress.**

(a) The consent of Congress is hereby given to the States of Maryland and West Virginia and the Commonwealths of Virginia and Pennsylvania and the District of Columbia to adopt and enter into the amended compact set forth in this section to create a Potomac Valley Conservancy District and to establish an Interstate Commission on the Potomac River Basin and every part and article thereof; provided, that nothing contained in such amended compact shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of this compact; and provided further, that the consent herein given does not extend to § (F) (2) of Article II of the amended compact.

ARTICLE I

The Interstate Commission on the Potomac River Basin shall consist of three members from each signatory body and three members appointed by the President of the United States. Said Commissioners, other than those appointed by the President, shall be chosen in a manner and for the terms provided by law of the signatory body from which they are appointed and shall serve without compensation from the Commission but shall be paid by the



Commission their actual expenses incurred and incident to the performance of their duties.

(A) The Commission shall meet and organize within thirty days after the effective date of this compact, shall elect from its number a chairman and vice-chairman, shall adopt suitable bylaws, shall make, adopt and promulgate such rules and regulations as are necessary for its management and control, and shall adopt a seal.

(B) The Commission shall appoint and, at its pleasure, remove or discharge such officers and legal, engineering, clerical, expert and other assistants as may be required to carry the provisions of this compact into effect, and shall determine their qualifications and fix their duties and compensation. Such personnel as may be employed shall be employed without regard to any civil service or other similar requirements for employees of any of the signatory bodies. The Commission may maintain one or more offices for the transaction of its business and may meet at any time or place within the area of the signatory bodies.

(C) The Commission shall keep accurate accounts of all receipts and disbursements and shall make an annual report thereof and shall in such report set forth in detail the operations and transactions conducted by it pursuant to this compact. The Commission, however, shall not incur any obligations for administrative or other expenses prior to the making of appropriations adequate to meet the same nor shall in any way pledge the credit of any of the signatory bodies. Each of the signatory bodies reserves the right to make at any time an examination and audit of the accounts of the Commission.

(D) A quorum of the Commission shall, for the transaction of business, the exercise of any powers, or the performance of any duties, consist of at least six members of the Commission who shall represent at least a majority of the signatory bodies; provided, however, that no action of the Commission relating to policy or stream classification or standards shall be binding on any one of the signatory bodies unless at least two of the Commissioners from such signatory body shall vote in favor thereof.

## ARTICLE II

The Commission shall have the power:

(A) To collect, analyze, interpret, coordinate, tabulate, summarize and distribute technical and other data relative to, and to conduct studies, sponsor research and prepare reports on, pollution and other water problems of the Conservancy District.

(B) To cooperate with the legislative and administrative agencies of the signatory bodies, or the equivalent thereof, and with other commissions and Federal, local governmental and non-governmental agencies, organizations, groups and persons for the purpose of promoting uniform laws, rules or regulations for the abatement and control of pollution of streams and the utilization, conservation and development of the water and associated land resources in the said Conservancy District.

(C) To disseminate to the public information in relation to stream pollution problems and the utilization, conservation and development of the water and associated land resources of the Conservancy District and on the aims, views, purposes and recommendations of the Commission in relation thereto.

(D) To cooperate with, assist, and provide liaison for and among, public and non-public agencies and organizations concerned with pollution and other water problems in the formulation and coordination of plans, programs and other activities relating to stream pollution or to the utilization, conservation or development of water or associated land resources, and to sponsor cooperative action in connection with the foregoing.

(E) In its discretion and at any time during or after the formulation thereof, to review and to comment upon any plan or program of any public or private agency or organization relating to stream pollution or the utilization, conservation or development of water or associated land resources.

(F)(1) To make, and, if needful from time to time, revise and recommend to the signatory bodies, reasonable minimum standards for the treatment of sewage and industrial or other wastes now discharged or to be discharged in the future to the streams of the Conservancy District, and also for cleanliness of the various streams in the Conservancy District.

(2) To establish reasonable physical, chemical and bacteriological standards of water quality satisfactory for various classifications of use. It is agreed that each of the signatory bodies through appropriate agencies will prepare a classification of its interstate waters in the District in entirety or by portions according to present and proposed highest use, and for this purpose technical experts employed by appropriate state water pollution control agencies are authorized to confer on questions relating to classification of interstate waters affecting two or more states. Each signatory body agrees to submit its classification of its interstate waters to the Commission with its recommendations thereon.

The Commission shall review such classification and recommendations and accept or return the same with its comments. In the event of return, the signatory body will consider the comments of the Commission and resubmit the classification proposal, with or without amendment, with any additional comments for further action by the Commission.

It is agreed that after acceptance of such classification, the signatory body through its appropriate state water pollution control agencies will work to establish programs of treatment of sewage and industrial wastes which will meet or exceed standards established by the Commission for classified waters. The Commission may from time to time make such changes in definitions of classifications and in standards as may be required by changed conditions or as may be necessary for uniformity and in a manner similar to that in which these standards and classifications were originally established.

It is recognized, owing to such variable factors as location, size, character and flow and the many varied uses of the waters subject to the terms of this compact, that no single standard of sewage and waste treatment and no single standard of quality of receiving waters is practical and that the degree of treatment of sewage and industrial wastes should take into account the

classification of the receiving waters according to present and proposed highest use, such as for drinking water supply, bathing and other recreational purposes, maintenance and propagation of fish life, industrial and agricultural uses, navigation and disposal of wastes.

### ARTICLE III

For the purpose of dealing with the problems of pollution and of water and associated land resources in specific areas which directly affect two or more, but not all, signatory bodies, the Commission may establish Sections of the Commission consisting of the Commissioners from such affected signatory bodies; provided, however, that no signatory body may be excluded from any Section in which it wishes to participate. The Commissioners appointed by the President of the United States may participate in any Section. The Commission shall designate, and from time to time may change, the geographical area with respect to which each Section shall function. Each Section shall, to such extent as the Commission may from time to time authorize, have authority to exercise and perform with respect to its designated geographical area any power or function vested in the Commission, and in addition may exercise such other powers and perform such functions as may be vested in such Section by the laws of any signatory body or by the laws of the United States. The exercise or performance by a Section of any power or function vested in the Commission may be financed by the Commission, but the exercise or performance of powers or functions vested solely in a Section shall be financed through funds provided in advance by the bodies, including the United States, participating in such Section.

### ARTICLE IV

The moneys necessary to finance the Commission in the administration of its business in the Conservancy District shall be provided through appropriations from the signatory bodies and the United States, in the manner prescribed by the laws of the several signatory bodies and of the United States, and in amounts as follows:

The pro rata contributions shall be based on such factors as population; the amount of industrial and domestic pollution; and a flat service charge; as shall be determined from time to time by the Commission, subject, however, to the approval, ratification and appropriation of such contribution by the several signatory bodies.

### ARTICLE V

Pursuant to the aims and purposes of this compact, the signatory bodies mutually agree:

1. Faithful cooperation in the abatement of existing pollution and the prevention of future pollution in the streams of the Conservancy District and in planning for the utilization, conservation and development of the water and associated land resources thereof.



2. The enactment of adequate and, insofar as is practicable, uniform legislation for the abatement and control of pollution and control and use of such streams.

3. The appropriations of biennial sums on the proportionate basis as set forth in Article IV.

#### ARTICLE VI

This compact shall become effective immediately after it shall have been ratified by the majority of the legislature of the States of Maryland and West Virginia, the Commonwealths of Pennsylvania and Virginia, and by the Commissioner of the District of Columbia, and approval by the Congress of the United States; provided, however, that this compact shall not be effective as to any signatory body until ratified thereby.

#### ARTICLE VII

Any signatory body may, by legislative act, after one year's notice to the Commission, withdraw from this compact.

(b) The Mayor of the District of Columbia is authorized to enter into, on behalf of the District of Columbia, the amended compact hereinbefore recited.

(c) The right to alter, amend, or repeal this section is hereby expressly reserved.

(Sept. 25, 1970, 84 Stat. 856, Pub. L. 91-407.)

**Prior Codifications.** — 1981 Ed., § 7-1302. 1973 Ed., § 7-1502.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

# CHAPTER 17. SOIL AND WATER CONSERVATION.

## *Subchapter I. Soil and Water Conservation District*

Sec.

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## *Subchapter II. Reestablishment*

8-1721. Soil and Water Conservation District — Reestablished.

## *Subchapter I. Soil and Water Conservation District.*

### § 8-1701. Findings; declaration of policy.

The Council of the District of Columbia finds and declares that:

(1) The lands and waters of the District of Columbia are basic assets. The construction of housing, industrial and commercial developments, streets, highways, recreation areas, schools and universities, public utilities and facilities, and other land disturbing activities have accelerated the process of soil erosion and sediment deposition. This results in the pollution of and damage to the waters, the lands, the forests, the recreational areas, and the wildlife of the District of Columbia.

(2) A soil and water conservation district is an appropriate organization to preserve and enhance natural resources; to control, reduce, and help alleviate soil erosion; to alleviate past and prospective damage caused by wind and water erosion, flood waters, and sediment; to conserve, improve, and enhance water resources and water quality; to protect wildlife; and to protect and promote the health, safety, and general welfare of the people of the District of Columbia.

(3) Mutual cooperation and assistance among all agencies, departments, or offices of the District of Columbia government whose activities directly affect the conservation of the renewable natural resources of the District of Columbia is necessary to fulfill the requirements of this subchapter. It shall further be the responsibility of the heads of the District of Columbia government agencies, departments, or offices to take the necessary and proper steps to achieve the purposes of this subchapter.

(Sept. 14, 1982, D.C. Law 4-143, § 2, 29 DCR 3118.)

**Cross references.** — Water pollution control, generally, see § 8-103.01 et seq.

**Prior Codifications.** — 1981 Ed., § 1-2801.

**Legislative history of Law 4-143.** — Law 4-143, the "District of Columbia Soil and Water Conservation Act of 1982," was introduced in Council and assigned Bill No. 4-82, which was referred to the Committee on Transportation

and Environmental Affairs. The Bill was adopted on first and second readings on June 8, 1982 and June 22, 1982, respectively. Signed by the Mayor on July 12, 1982, it was assigned Act No. 4-211 and transmitted to both Houses of Congress for its review.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 2-23 (Act 2-54),

the "Soil Erosion and Sedimentation Control Act of 1977", see Mayor's Order 99-67, April 28, 1999 (46 DCR 4233).

**Editor's notes.** — Air quality control regulations enacted: Section 3 of D.C. Law 5-165, as amended by § 15 of D.C. Law 6-192, effective February 24, 1987, enacted air quality control regulations of the District of Columbia as chapters 1 through 9 of Title 20 of the District of Columbia Municipal Regulations, "Environment and Energy."

Section 485 of D.C. Law 6-42 amended §§ 100.4 and 105.1 of the air quality control regulations, effective March 15, 1985 (D.C. Law 5-165; 20 DCMR Chapters 1 through 9) to provide for adjudication of infractions pursuant to Chapter 18 of Title 2. Section 501(b) of D.C. Law 6-42 provided that the provisions of the act shall apply only to infractions which occur or are discovered by inspection after October 5, 1985.

Soil Erosion and Sedimentation Engineering

and Geological Analysis: For temporary provisions providing for the study of soil erosion and sedimentation of properties in Square S-5542, see §§ 2-5 of the Soil Erosion and Sedimentation Engineering and Geological Analysis Emergency Act of 1997 (D.C. Act 12-195, November 14, 1997, 44 DCR 7248).

Soil Erosion and Sedimentation Control in Square 6126: Title II, §§ 201—205, of D.C. Law 8-229 gave the Mayor powers to make an immediate determination of nature and cost of remedial actions for sediment control in Square 6126, power to undertake such actions, power to prohibit activities in Square 6126, power to enter private property to carry out the actions, and power to levy an assessment on the property in Square 6126; however, expenditure of funds for remedial actions or permanent improvements other than in Square 6126 is not authorized, nor is any claim or right of relief for such actions created in any person by Title II.

## § 8-1702. Definitions.

For the purposes of this subchapter, the term:

(1) "District of Columbia government agency" means any agency, department, unit, and instrumentality, corporate or otherwise, of the District of Columbia government.

(2) "Renewable natural resources" means the land, the soil, the water, the vegetation, the trees, the fish, and the wildlife of the District of Columbia.

(3) "Conservation" means conservation, improvement, maintenance, preservation, and protection of the renewable natural resources.

(4) "Mayor" means the Mayor of the District of Columbia or the Mayor's designee.

(5) "United States government agency" means any agency, department, unit, or instrumentality of the United States government.

(Sept. 14, 1982, D.C. Law 4-143, § 3, 29 DCR 3118.)

**Prior Codifications.** — 1981 Ed., § 1-2802.  
**Legislative history of Law 4-143.** — For

legislative history of D.C. Law 4-143, see Historical and Statutory Notes following § 8-1701.

## § 8-1703. Established.

There is established the Soil and Water Conservation District as a District of Columbia government agency.

(Sept. 14, 1982, D.C. Law 4-143, § 4, 29 DCR 3118.)

**Section references.** — This section is reprinted in § 8-1721.

**Prior Codifications.** — 1981 Ed., § 1-2803.

**Legislative history of Law 4-143.** — For legislative history of D.C. Law 4-143, see Historical and Statutory Notes following § 8-1701.

**Editor's notes.** — Section 15 of D.C. Law

4-143 provided that the Soil and Water Conservation District, established by § 8-1703, shall terminate on January 1, 1987, unless it is subsequently reestablished by an act of the Council of the District of Columbia. Section 8-1721, reestablishing the Soil and Water Conservation District, was enacted July 25, 1987.



## § 8-1704. Composition.

(a) The Soil and Water Conservation District, reestablished by § 8-1721, shall be governed by 7 members.

(b) Five members, at least 4 of whom shall be directors of appropriate agencies or departments of the District of Columbia government, shall be appointed by and serve at the pleasure of the Mayor. Two members shall be appointed by the Council of the District of Columbia upon the recommendation of the Chairman of the Council of the District of Columbia from among its members.

(c) Each member of the Water and Soil Conservation District may designate a person to serve and act in the absence of the appointed member.

(d) The members shall serve without compensation. Members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties in implementing the provisions of this subchapter.

(Sept. 14, 1982, D.C. Law 4-143, § 5, 29 DCR 3118; May 23, 1986, D.C. Law 6-117, § 2, 33 DCR 2442; Oct. 9, 1987, D.C. Law 7-39, § 3(a), 34 DCR 5331; Apr. 30, 1988, D.C. Law 7-104, § 8(a), 35 DCR 147; Apr. 12, 2000, D.C. Law 13-91, § 130, 47 DCR 520.)

**Prior Codifications.** — 1981 Ed., § 1-2804.

**Effect of amendments.** — D.C. Law 13-91, in subsec. (a), substituted “§ 1-2803.1” for “§ 1-2803” 1981 Ed. .

**Legislative history of Law 4-143.** — For legislative history of D.C. Law 4-143, see Historical and Statutory Notes following § 8-1701.

**Legislative history of Law 6-117.** — Law 6-117 was introduced in Council and assigned Bill No. 6-336, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on March 11, 1986 and March 25, 1986, respectively. Signed by the Mayor on April 8, 1986, it was assigned Act No. 6-152 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-39.** — For legislative history of D.C. Law 7-39, see Historical and Statutory Notes following § 8-1721.

**Legislative history of Law 7-104.** — Law 7-104 was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on Nov. 24, 1987 and

Dec. 8, 1987, respectively. Signed by the Mayor on Dec. 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 13-91.** — Law 13-91, the “Technical Amendments Act of 1999,” was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

**Transfer of Functions.** — The functions of the Department of Transportation were transferred to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984.

The functions of the Department of Environmental Services were transferred to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984.

## § 8-1705. Chairperson; meetings; employees.

(a) The Soil and Water Conservation District shall organize annually and shall select a Chairperson from among its members. The Chairperson shall convene meetings of the Soil and Water Conservation District when necessary to perform the functions of the Soil and Water Conservation District. All meetings of the Soil and Water Conservation District shall be open to the public. A majority of the members shall constitute a quorum and all actions of

the Soil and Water Conservation District shall be by a majority vote of the members present and voting at a meeting at which a quorum is present.

(b) The Soil and Water Conservation District may employ a secretary, technical experts, and other officers, agents, employees, and advisers, permanent and temporary, as may be permitted by the budget of the District of Columbia government for the Soil and Water Conservation District. The Soil and Water Conservation District may seek legal services from the Corporation Counsel of the District of Columbia. Staff assigned and employed in the member's office or District of Columbia government agency may provide services for the Soil and Water Conservation District. The Soil and Water Conservation District may delegate the powers and duties enumerated in this subchapter to its Chairman, to 1 or more of its members, or to 1 or more agents or employees of the Soil and Water Conservation District.

(Sept. 14, 1982, D.C. Law 4-143, § 6, 29 DCR 3118.)

**Prior Codifications.** — 1981 Ed., § 1-2805. legislative history of D.C. Law 4-143, see Historical and Statutory Notes following § 8-1701.  
**Legislative history of Law 4-143.** — For

## § 8-1706. Citizen Advisory Committee.

There is established a Citizen Advisory Committee to the Soil and Water Conservation District. The Mayor shall select, for a term of 2 years, 1 resident from each of the 8 wards of the District of Columbia, to serve on the Citizen Advisory Committee. The function of the Citizen Advisory Committee shall be to ensure communication between the Soil and Water Conservation District and the residents of the District of Columbia affected by the operation of the Soil and Water Conservation District. The members shall keep the Citizen Advisory Committee informed of its work. The Citizen Advisory Committee shall submit recommendations to the members and shall meet with the members at least semiannually.

(Sept. 14, 1982, D.C. Law 4-143, § 7, 29 DCR 3118; Apr. 3, 2001, D.C. Law 13-235, § 2, 48 DCR 593.)

**Prior Codifications.** — 1981 Ed., § 1-2806.

**Effect of amendments.** — D.C. Law 13-235 substituted "resident" for "Advisory Neighborhood Commissioner".

**Legislative history of Law 4-143.** — For legislative history of D.C. Law 4-143, see Historical and Statutory Notes following § 8-1701.

**Legislative history of Law 13-235.** — Law 13-235, the "Soil and Water Conservation Amendment Act of 2000", was introduced in

Council and assigned Bill No. 13-609, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on December 21, 2000, it was assigned Act No. 13-512 and transmitted to both Houses of Congress for its review. D.C. Law 13-235 became effective on April 3, 2001.

## § 8-1707. Powers.

The Soil and Water Conservation District shall discharge its powers and authority on all the lands within the boundaries of the District of Columbia except those lands owned by the United States government. The Soil and Water Conservation District shall have the following powers:



(1) To conduct surveys, investigations, and research relating to the conservation of renewable natural resources;

(2) To conduct demonstration projects within the Soil and Water Conservation District on land owned or controlled by any District of Columbia government agency, with the consent and cooperation of the District of Columbia government agency administering and having jurisdiction thereof, and on any other land located within the Soil and Water Conservation District upon obtaining the consent and cooperation of the owner of the land. The projects will demonstrate the manner and the methods of improvement by which the conservation of renewable natural resources may be implemented;

(3) To implement preventive, improvement, and control measures within the Soil and Water Conservation District. This shall include, but not be limited to, engineering operations, methods of cultivation, and the growing of vegetation on land owned or controlled by any District of Columbia government agency with the cooperation and consent of the District of Columbia government agency administering and having jurisdiction thereof, and on any other land located within the Soil and Water Conservation District, upon obtaining the consent and cooperation of the owner of the land or the necessary rights or interests in the land;

(4) To assist in the implementation of the functions of the Mayor with respect to erosion and sediment control pursuant to § 42-608 as may be agreed to by the Mayor and the Soil and Water Conservation District;

(5) To provide to individuals and organizations agricultural, gardening, and engineering equipment, fertilizer, seeds and seedlings, and other material or equipment as will assist individuals or organizations in the conservation of renewable natural resources on their property located within the Soil and Water Conservation District. The Soil and Water Conservation District shall establish a fee schedule, after notice and comment, to provide for the loan, use, grant, or transfer of any material or equipment of the Soil and Water Conservation District;

(6) To develop and implement long-range resource conservation programs and annual work plans pursuant to § 8-1708;

(7) To enter into agreement with and to coordinate assistance from a United States government agency; to accept donations, gifts, and contributions in money, personnel, services, materials, equipment, or otherwise, from a United States government agency, or from any other source, and to use or expend the money, services, materials, or other contributions exclusively for the purpose of implementing this subchapter;

(8) To make and execute contracts, agreements, and other instruments necessary to exercise the powers granted in this subchapter; provided, that the contracts, agreements, and other instruments shall not obligate or require the Water and Soil Conservation District or the District of Columbia government to perform any function, duty, or obligation after January 1, 1987;

(9) To issue rules to implement this subchapter;

(10) To conduct educational programs and activities; and

(11) To review, comment, and make recommendations on proposed zoning regulations and amendments, proposed laws and regulations affecting renew-



able natural resources and their uses, and on the proposed location of highways, schools, housing developments, industries, and other facilities and structures within the District of Columbia.

(Sept. 14, 1982, D.C. Law 4-143, § 8, 29 DCR 3118.)

**Prior Codifications.** — 1981 Ed., § 1-2807. legislative history of D.C. Law 4-143, see Historical and Statutory Notes following § 8-1701.  
**Legislative history of Law 4-143.** — For

## § 8-1708. Long-range resource conservation program; annual work plan.

(a) The Water and Soil Conservation District shall prepare, and revise annually in cooperation with other District of Columbia government agencies, a long-range program for the conservation of renewable natural resources. The program shall be directed toward conservation of resources for their best use and in a manner that will meet the needs of the District of Columbia. The program shall include an inventory of all renewable natural resources in the Soil and Water Conservation District, a compilation of current resource needs, projections of future resource requirements, priorities for various resource activities, projected time tables, descriptions of available alternatives, and provisions for coordination with other programs.

(b) The Soil and Water Conservation District shall prepare an annual work plan which shall describe the programs, services, facilities, materials, working arrangements, and estimated funds needed to carry out the parts of the long-range program that are of the highest priority in the coming year.

(c) The long-range program and work plan shall be made available to the Mayor, to the Council of the District of Columbia, to District of Columbia government agencies, to United States government agencies, and to the general public.

(Sept. 14, 1982, D.C. Law 4-143, § 9, 29 DCR 3118.)

**Section references.** — This section is referenced in § 8-1707.

**Prior Codifications.** — 1981 Ed., § 1-2808.

**Legislative history of Law 4-143.** — For legislative history of D.C. Law 4-143, see Historical and Statutory Notes following § 8-1701.

## § 8-1709. Cooperative agreements; documentary function; public hearings; annual report.

(a) Appropriate United States government agencies and District of Columbia government agencies may designate liaison representatives and assign employees, on a temporary or permanent basis, for the consultation on programs and plans for resource conservation, and in the preparation and coordination of local planning and programming for resource conservation.

(b) The Soil and Water Conservation District shall consult, cooperate, and the Mayor, upon the advice and recommendation of the Soil and Water Conservation District, may enter into agreements with adjacent local, state, regional, interstate, and United States government agencies to promote

efficient resource conservation policies in implementing the purposes of this subchapter.

(c) The Soil and Water Conservation District shall fully inform the Mayor, the Council of the District of Columbia, and other appropriate local and regional agencies concerning the status and progress of the preparation of its resource conservation programs and plans and shall, upon request, provide the Mayor, the Council of the District of Columbia, and other appropriate agencies with reports, data, rules, orders, contracts, forms, and other documents.

(d) The Soil and Water Conservation District shall hold public hearings in connection with the preparation of the annual work plan and other major programs and shall give careful consideration to the views expressed in the hearings. The Soil and Water Conservation District shall keep the public informed concerning its programs, plans, and activities by hearings and other meetings as it deems appropriate.

(e) The Soil and Water Conservation District shall publish an annual report of its plans, programs, activities, budget, receipts, and expenditures and shall include therein descriptions of its official resource conservation program, the current annual program related thereto, and the status of all activities initiated under the program. It shall submit copies of each annual report to the Mayor and to the Council of the District of Columbia, and shall make copies of reports, summaries, and digests available to the appropriate agencies and to the general public.

(f) All actions of the Soil and Water Conservation District shall be in compliance with subchapter I of Chapter 5 of Title 2.

(Sept. 14, 1982, D.C. Law 4-143, § 10, 29 DCR 3118.)

**Prior Codifications.** — 1981 Ed., § 1-2809. legislative history of D.C. Law 4-143, see Historical and Statutory Notes following § 8-1701.  
**Legislative history of Law 4-143.** — For

## § 8-1710. Participation in loan or grant.

The Soil and Water Conservation District may obtain a loan or grant of any funds, property, equipment, or services from any United States government agency or District of Columbia government agency for any of the purposes of this subchapter. In connection with any loan or grant, the Soil and Water Conservation District may pledge, encumber, or obligate any property or monies of the Soil and Water Conservation District; provided, that the encumbrance, obligation, or pledge shall not extend beyond January 1, 1987.

(Sept. 14, 1982, D.C. Law 4-143, § 11, 29 DCR 3118.)

**Prior Codifications.** — 1981 Ed., § 1-2810. legislative history of D.C. Law 4-143, see Historical and Statutory Notes following § 8-1701.  
**Legislative history of Law 4-143.** — For

## § 8-1711. Annual budget.

The Soil and Water Conservation District shall submit to the Mayor of the District of Columbia an annual budget requesting appropriations for the purpose of implementing this subchapter. Such budget shall be submitted in

the same manner as are budgets of other District of Columbia government agencies.

(Sept. 14, 1982, D.C. Law 4-143, § 12, 29 DCR 3118.)

**Prior Codifications.** — 1981 Ed., § 1-2811. legislative history of D.C. Law 4-143, see Historical and Statutory Notes following § 8-1701.  
**Legislative history of Law 4-143.** — For

## § 8-1712. Limitations on authority.

Nothing in this subchapter shall authorize the Soil and Water Conservation District, any of its members, or any of its employees to obligate, encumber, pledge, necessitate, or require the Soil and Water Conservation District or the District of Columbia government to perform, execute, or to take any action subsequent to January 1, 1987. Any property, materials, equipment, land, money, records, or any other asset of the Soil and Water Conservation District shall become the possession of the District of Columbia government on January 2, 1987.

(Sept. 14, 1982, D.C. Law 4-143, § 13, 29 DCR 3118.)

**Prior Codifications.** — 1981 Ed., § 1-2812. legislative history of D.C. Law 4-143, see Historical and Statutory Notes following § 8-1701.  
**Legislative history of Law 4-143.** — For

## § 8-1713. Termination. [Repealed].

Repealed.

(Sept. 14, 1982, D.C. Law 4-143, § 15, 29 DCR 3118; Oct. 9, 1987, D.C. Law 7-39, § 5, 34 DCR 5331.)

**Legislative history of Law 7-39.** — For legislative history of D.C. Law 7-39, see Historical and Statutory Notes following § 8-1721.

## § 8-1714. Terms.

Each member of the Soil and Water Conservation Board appointed by the Council of the District of Columbia shall serve a 2-year term, which shall expire at the conclusion of the Council period during which the Councilmember was appointed.

(Sept. 14, 1982, D.C. Law 4-143, § 17, as added Oct. 9, 1987, D.C. Law 7-39, § 4, 34 DCR 5331; Apr. 30, 1988, D.C. Law 7-104, § 8(b), 35 DCR 147.)

**Prior Codifications.** — 1981 Ed., § 1-2814.  
**Legislative history of Law 7-39.** — For legislative history of D.C. Law 7-39, see Historical and Statutory Notes following § 8-1721.  
**Legislative history of Law 7-104.** — For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 8-1704.



*Subchapter II. Reestablishment.***§ 8-1721. Soil and Water Conservation District — Reestablished.**

The Soil and Water Conservation District established by § 8-1703 is reestablished as a District of Columbia government agency.

(Oct. 9, 1987, D.C. Law 7-39, § 2, 34 DCR 5331.)

**Section references.** — This section is referenced in § 8-1704.

**Prior Codifications.** — 1981 Ed., § 1-2803.1.

**Legislative history of Law 7-39.** — Law 7-39 was introduced in Council and assigned Bill No. 7-189, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 30, 1987 and July 14, 1987, respectively. Signed by the Mayor on July 23,

1987, it was assigned Act No. 7-67 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Section 15 of D.C. Law 4-143 provided that the Soil and Water Conservation District, established by § 8-1703, shall terminate on January 1, 1987, unless it is subsequently reestablished by an act of the Council of the District of Columbia. Section 8-1721, reestablishing the Soil and Water Conservation District, was enacted July 25, 1987.

SUBTITLE D-I. ENERGY CONSERVATION.

CHAPTER 17M. ENERGY EFFICIENCY STANDARDS.

Sec.

8-1771.01. Definitions.

8-1771.02. Scope.

8-1771.03. Standards and implementation.

8-1771.04. New and revised standards.

8-1771.05. Testing, certification, labeling, and enforcement.

Sec.

8-1771.06. Electric company purchases of distribution transformers — Public Service Commission rule.

§ 8-1771.01. Definitions.

For the purposes of this chapter, the term:

(1) “Ballast” means a device used with an electric discharge lamp to obtain necessary circuit conditions (voltage, current, and waveform) for starting and operating the lamp.

(2) “Bottle-type water dispenser” means a water dispenser that uses a bottle or reservoir as the source of potable water.

(3) “Commercial hot food holding cabinet” means a heated, fully-enclosed compartment with one or more solid or glass doors that is designed to maintain the temperature of hot food that has been cooked in a separate appliance. The term “commercial hot food holding cabinet” shall not include heated glass merchandizing cabinets, drawer warmers, or cook-and-hold appliances.

(4) “Construction Codes” means the standards and requirements adopted pursuant to Chapter 14 of Title 6.

(5) “High-intensity discharge lamp” means a lamp in which light is produced by the passage of an electric current through a vapor or gas and in which the light-producing arc is stabilized by bulb wall temperature and the arc tube has a bulb wall loading in excess of 3 watts per square centimeter.

(6) “Metal halide lamp” means a high-intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

(7) “Metal halide lamp fixture” means a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

(8) “Probe-start metal halide ballast” means a ballast which is used to operate metal halide lamps, which does not contain an igniter, and which starts lamps by using a 3rd starting electrode probe in the arc tube.

(9) “Single-voltage external AC to DC power supply” means a device that:

(A) Is designed to convert line voltage AC input into lower voltage DC output;

(B) Is able to convert to only one DC output voltage at a time;

(C) Is sold with, or intended to be used with, a separate end-use product that constitutes the primary power load;

(D) Is contained within a separate physical enclosure from the end-use product;

(E) Is connected to the end-use product through a removable or hard-wired male/female electrical connection, cable, cord, or other wiring;

(F) Does not have batteries or battery packs, including those that are removable, that physically attach directly to the power supply unit;

(G) Does not have a battery chemistry or type selector switch and:

(i) Indicator light; or

(ii) A battery chemistry or type selector switch and a state of charge meter; and

(H) Has a nameplate output power not exceeding 250 watts.

(10) “State-regulated incandescent reflector lamp” means a lamp, not colored or designed for rough or vibration service applications, with an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, a rated voltage or voltage range that lies at least partially within 115 to 130 volts, and that falls into either of the following categories:

(A) A blown PAR, bulged reflector, elliptical reflector, or similar bulb shape with a diameter equal to or greater than 2.25 inches; or

(B) A reflector, parabolic aluminized reflector, or similar bulb shape with a diameter of 2.25 to 2.75 inches.

(11) “Walk-in refrigerator or freezer” means a refrigerated space that can be walked into and has a total chilled and frozen storage area of less than 3,000 square feet, operates at chilled (above 32 degrees Fahrenheit) or frozen (at or below 32 degrees Fahrenheit) temperature, and is connected to a self-contained or remote condensing unit. The term “walk-in refrigerator or freezer” shall not include products designed and marketed exclusively for medical, scientific, or research purposes, or refrigerated warehouses.

(12) “Water dispenser” means a factory-made assembly that mechanically cools and heats potable water and that dispenses the cooled or heated water by integral or remote means.

(Dec. 11, 2007, D.C. Law 17-64, § 2, 54 DCR 10964.)

**Legislative history of Law 17-64.** — Law 17-64, the “Energy Efficiency Standards Act of 2007”, was introduced in Council and assigned Bill No. 17-211 which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second

readings on July 10, 2007, and October 2, 2007, respectively. Signed by the Mayor on October 19, 2007, it was assigned Act No. 17-165 and transmitted to both Houses of Congress for its review. D.C. Law 17-64 became effective on December 11, 2007.

## § 8-1771.02. Scope.

(a) This chapter shall apply to the following types of new products sold, offered for sale, or installed in the District of Columbia:

(1) Bottle-type water dispensers;

(2) Commercial hot food holding cabinets;

(3) Metal halide lamp fixtures;

(4) Single-voltage external AC to DC power supplies;

(5) State-regulated incandescent reflector lamps;

(6) Walk-in refrigerators or freezers; and

(7) Any other products designated by the Mayor in accordance with § 8-1771.04.

(b) This chapter shall not apply to:



(1) New products manufactured in the District of Columbia and sold outside the District of Columbia;

(2) New products manufactured outside the District of Columbia and sold at wholesale inside the District for final retail sale and installation outside the District of Columbia;

(3) Products installed in mobile manufactured homes at the time of construction; or

(4) Products designed expressly for installation and use in recreational vehicles.

(Dec. 11, 2007, D.C. Law 17-64, § 3, 54 DCR 10964.)

**Section references.** — This section is referenced in § 8-1771.04.

**Legislative history of Law 17-64.** — For Law 17-64, see notes following § 8-1771.01.

### § 8-1771.03. Standards and implementation.

(a) On or after January 1, 2009, a new bottle-type water dispenser, commercial hot food holding cabinet, metal halide lamp fixture, state-regulated incandescent reflector lamp, or walk-in refrigerator or freezer shall not be sold or offered for sale in the District of Columbia unless the efficiency of the new product meets or exceeds the efficiency standards set forth in subsection (b) of this section.

(b) On or after January 1, 2010, a product listed in subsection (a) of this section shall not be installed in the District of Columbia unless the efficiency of the new product meets or exceeds the following efficiency standards:

(1) Bottle-type water dispensers designed for dispensing both hot and cold water shall not have standby energy consumption greater than 1.2 kilowatt-hours per day, as measured in accordance with the test criteria contained in version 1.1 of the Environmental Protection Agency's "Energy Star Program Requirements for Bottled Water Coolers," except units with an integral, automatic timer shall not be tested using Section D, "Timer Usage," of the test criteria.

(2) Commercial hot food holding cabinets shall have a maximum idle energy rate not exceeding 40 watts per cubic foot of interior volume, as determined by the "idle energy rate-dry test" in ASTM F2140-01, "Standard Test Method for Performance of Hot Food Holding Cabinets" published by ASTM International. Interior volume shall be measured in accordance with the method shown in the Environmental Protection Agency's "Energy Star Program Requirements for Commercial Hot Food Holding Cabinets" as in effect on August 15, 2003.

(3) Metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts shall not contain a probe-start metal halide ballast.

(4)(A) State-regulated incandescent reflector lamps shall meet the minimum average lamp efficacy requirements for federally-regulated incandescent reflector lamps contained in section 325(i)(1)(A) of the Energy Policy and Conservation Act, approved December 22, 1975 (89 Stat. 923; 42 U. S.C. § 6295(i)(1)(A)).

(B) The following types of incandescent reflector lamps shall be exempt from these requirements:

(i) Lamps rated at 50 watts or less of the following types: BR30, ER30, BR40, and ER40;

(ii) Lamps rated at 65 watts of the following types: BR30, BR40, and ER40; and

(iii) R20 lamps of 45 watts or less.

(5)(A) Walk-in refrigerators or freezers shall:

(i) Have automatic door closers that firmly close all reach-in doors and that firmly close all walk-in doors that have been closed to within one inch of full closure; provided, that this requirement shall not apply to walk-in doors wider than 3 feet, 9 inches or higher than 6 feet, 11 inches;

(ii) Contain wall, ceiling, and door insulation of at least R-28 for refrigerators and at least R-32 for freezers; provided, that door insulation requirements shall not apply to glazed portions of doors or to structural members;

(iii) Contain floor insulation of at least R-28 for freezers;

(iv) For single-phase evaporator fan motors of under one horsepower and less than 460 volts, use electronically commutated motors; provided, that the Mayor may delay implementation of this sub-subparagraph upon a determination that the motors are only available from one manufacturer or in insufficient quantities to serve the needs of the walk-in industry for evaporator-fan applications;

(v) For condenser fan motors of under one horsepower, use either:

(I) Electronically commutated motors;

(II) Permanent split capacitor-type motors; or

(III) Polyphase motors of  $\frac{1}{2}$  horsepower or more; and

(vi) For all interior lights, use light sources with an efficacy of 40 lumens per watt or more, including ballast losses; provided, that light sources with an efficacy of 40 lumens per watt or less, including ballast losses (if any), may be used in conjunction with a timer or device that turns off the lights within 15 minutes after the enclosure ceases to be occupied.

(B) Walk-in refrigerators or freezers with transparent reach-in doors and walk-in door windows shall also meet the following specifications:

(i) Transparent reach-in doors and windows in walk-in doors for walk-in freezers shall be of triple-pane glass with either heat-reflective treated glass or gas fill.

(ii) Transparent reach-in doors and windows in walk-in doors for walk-in refrigerators shall be:

(I) Double-pane glass with heat-reflective treated glass and gas fill;  
or

(II) Triple-pane glass with either heat-reflective treated glass or gas fill.

(iii) For appliances with an anti-sweat heater:

(I) The appliances shall have a total door rail, glass, and frame heater power draw of no more than:

(aa) Seven and  $\frac{1}{10}$  watts per square foot of door opening for freezers; and

(bb) Three watts per square foot of door opening for refrigerators.

(II) If an appliance with an anti-sweat heater has anti-sweat heat controls, the controls shall reduce the energy use of the anti-sweat heater in an amount corresponding to the relative humidity in the air outside the door or to the condensation on the inner glass pane.

(c) On or after January 1, 2012, a new single-voltage external AC to DC power supply shall not be sold or offered for sale in the District of Columbia unless the efficiency of the new product meets or exceeds the following efficiency standards:

(1) Single-voltage external AC to DC power supplies shall meet the energy efficiency requirements in the following table:

<b>Nameplate Output Power</b>	<b>Minimum Efficiency in Active Mode</b>
From 0 to less than 1 watt	0.49 times the nameplate output
From 1 watt to not more than 49 watts	The sum of 0.09 times the natural logarithm of the nameplate output power (expressed in watts) and 0.49
Greater than 49 watts	0.84
	<b>Maximum Energy Consumption in No-Load Mode</b>
From 0 to less than 10 watts	0.5 watts
From 10 watts to not more than 250 watts	0.75 watts

(2) This standard shall apply to single-voltage AC to DC power supplies that are sold individually and to those that are sold as a component of or in conjunction with another product.

(3) Single-voltage external AC to DC power supplies that require Food and Drug Administration listing and approval as a medical device shall be exempt from the requirements of this section.

(4) Single-voltage external AC to DC power supplies made available by a manufacturer directly to a consumer or to a service or repair facility after and separate from the original sale of the product requiring the power supply as a service part or spare part shall not be required to meet the standards of this section until January 1, 2013.

(5) For the purposes of this section, the efficiency of single-voltage external AC to DC power supplies shall be measured in accordance with the test methodology specified by the Environmental Protection Agency's Energy Star Program, "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC-DC and AC-AC Power Supplies (August 11, 2004)," except that tests shall be conducted at 115 volts only.

(6) One year after the sale or offering for sale of a new product becomes subject to the requirements of subsection (c) of this section, the product shall not be installed in the District of Columbia unless the efficiency of the new product meets or exceeds the efficiency standards set forth herein.

(Dec. 11, 2007, D.C. Law 17-64, § 4, 54 DCR 10964.)



**Section references.** — This section is referenced in § 8-1771.05.

**Legislative history of Law 17-64.** — For Law 17-64, see notes following § 8-1771.01.

### § 8-1771.04. New and revised standards.

The Mayor may adopt rules to establish increased efficiency standards for the products listed in § 8-1771.02 or efficiency standards for products not specifically listed in § 8-1771.02 if he or she determines that increased efficiency standards would serve to promote energy conservation in the District of Columbia; provided, that no new or increased efficiency standards shall become effective in less than one year following the adoption of the rule establishing the efficiency standard; provided further, that a substantially identical standard shall have been adopted by statute or regulation in Maryland or Virginia. The Mayor may apply for a waiver of federal preemption in accordance with federal procedures under section 325 of the Energy Policy and Conservation Act, approved December 22, 1975 (89 Stat. 923; 42 U.S.C. § 6295), for state efficiency standards for any product regulated by the federal government.

(Dec. 11, 2007, D.C. Law 17-64, § 5, 54 DCR 10964.)

**Section references.** — This section is referenced in § 8-1771.02.

**Legislative history of Law 17-64.** — For Law 17-64, see notes following § 8-1771.01.

### § 8-1771.05. Testing, certification, labeling, and enforcement.

(a) The manufacturers of products covered by this chapter shall test samples of their products. The tests shall be conducted in accordance with test procedures contained in § 8-1771.03 or with test procedures adopted by California or Maryland if the test procedures were adopted to enforce energy efficiency standards substantially identical to those adopted by the District of Columbia. If test procedures are not provided for in § 8-1771.03, the Mayor may adopt test procedures adopted by any other state, United States Department of Energy-approved test methods or, in the absence of such test methods, other appropriate nationally recognized test methods.

(b) Manufacturers of new products covered by § 8-1771.03, except for single-voltage external AC to DC power supplies and walk-in refrigerators or freezers, shall certify that the products are in compliance with the provisions of this chapter. The certifications shall be based on test results. The Mayor may promulgate rules governing the certification of such products and may coordinate with the certification programs of other states and federal agencies with substantially identical standards.

(c) Manufacturers of new products covered by § 8-1771.03 shall identify each product offered through retailers for sale or installation in the District of Columbia as in compliance with the provisions of this chapter, or with the energy efficiency standards enacted by another state or the federal government if the standards on which the compliance is based are substantially identical to the appropriate standards in the District of Columbia, by means of a mark, label, or tag on the product or packaging at the time of sale or installation. The

Mayor shall allow the use of existing marks, labels, or tags that connote compliance with the efficiency requirements of this chapter. All display models of products covered by § 8-1771.03 shall be displayed with a mark, label, or tag on the product indicating compliance with the efficiency requirements of this chapter. If a national efficiency standard is established by federal law or regulation for a product covered by § 8-1771.03, the labeling requirements of this subsection shall not apply to the product.

(d) The Mayor may test products covered by § 8-1771.03 following the implementation dates of the standards provided in § 8-1771.03 for the specific product. If products so tested are found not to be in compliance with the minimum efficiency standards established under § 8-1771.03, after notice and a hearing, the Mayor shall:

(1) Impose a penalty on the manufacturer of the product in an amount at least equal to the cost of product purchase and testing; and

(2) Make information available to the public on products found not to be in compliance with the standards.

(e) The Mayor may randomly and periodically inspect distributors or retailers of new products covered by this chapter to determine compliance. The Mayor may also undertake inspections prior to occupancy of newly constructed buildings containing new products that are also covered by the Construction Codes.

(f)(1) The Mayor may investigate potential violations of this chapter. If the Mayor finds, after notice and a hearing, that a manufacturer, distributor, or retailer of a product covered by this chapter, or a person who installs a product covered by this chapter, violates any provision of this chapter, the Mayor:

(A) For a first violation, shall issue a warning; and

(B) For a second or subsequent violation, may take one or more of the following actions:

(i) Impose a penalty not to exceed:

(I) Two thousand five hundred dollars if the violator is, or is an agent of, a manufacturer, distributor, or retailer of the product; or

(II) Five hundred dollars for any other violator;

(ii) Issue a cease and desist order; or

(iii) Request that the Attorney General for the District of Columbia commence civil or criminal action to secure injunctive or other appropriate relief.

(2) Each violation shall constitute a separate offense. Each day that a violation continues shall constitute a separate offense.

(3) Penalties assessed under this subsection shall be in addition to the costs assessed under subsection (d) of this section.

(g) The Mayor may adopt such other rules as may be necessary or appropriate for the implementation and enforcement of this chapter.

(Dec. 11, 2007, D.C. Law 17-64, § 6, 54 DCR 10964.)

**Legislative history of Law 17-64.** — For Law 17-64, see notes following § 8-1771.01.

**§ 8-1771.06. Electric company purchases of distribution transformers — Public Service Commission rule.**

(a) For the purposes of this section, the term:

(1) “Electric company” shall have the same meaning as in § 34-207.

(2) “Liquid-immersed distribution transformer” means a transformer that:

(A) Has an input voltage of 34,500 volts or less;

(B) Has an output voltage of 600 volts or less;

(C) Uses oil or other liquid as a coolant; and

(D) Is rated for operation at a frequency of 60 Hertz.

(3) “Transformer” means a device consisting of 2 or more coils of insulated wire and that is designed to transfer alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

(b) Within 365 days of the date that the United States Department of Energy issues a final rule on liquid-immersed distribution transformers, the Public Service Commission shall adopt a rule governing the purchase of liquid-immersed distribution transformers by the electric company. The rule shall ensure that, subject to availability, all such purchases occurring on or after January 1, 2009 are based on the life-cycle cost methodology contained in section 2 of Standard TP 1-2002 published by the National Electrical Manufacturers Association. The Public Service Commission may also consider additional inventory management costs as costs for inclusion within the life-cycle cost methodology to be used by an electric company for purposes of this section. Except as provided herein, the rule shall be consistent with regulations pertaining to liquid-immersed distribution transformers adopted by the United States Department of Energy.

(Dec. 11, 2007, D.C. Law 17-64, § 7, 54 DCR 10964.)

**Section references.** — This section is referenced in § 34-302.01.

**Legislative history of Law 17-64.** — For Law 17-64, see notes following § 8-1771.01.



CHAPTER 17M1. COMMERCIAL ENERGY CONSERVATION.

Sec.

8-1772.01. Definitions.

8-1772.02. Commercial property energy conservation.

Sec.

8-1772.03. Penalties.

§ 8-1772.01. Definitions.

For the purposes of this chapter, the term:

(1) "Air conditioner" means an appliance, system, or mechanism designed to remove heat and humidity from ambient air for thermal comfort.

(2) "Chain of stores" means 2 or more stores located within the District that are engaged in the same general field of business under the same business name or that operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

(3) "Commercial property" means income-producing property as identified under zoning classifications that would allow for uses such as office buildings, retail stores, and service facilities pursuant to Chapter 7 of Title 11 of the District of Columbia Municipal Regulations (11 DCMR § 700 et seq.); provided, that the term "commercial property" shall not include a small store, hotel, or restaurant.

(4) "Person" means:

(A) The owner or lessee of the portion of a commercial building or structure that is a retail or wholesale establishment that sells goods or provides services to consumers; and

(B) The record owner or lessee of any other portion of a commercial building or structure.

(5) "Small store" means a retail or wholesale establishment that sells goods or provides services to consumers and occupies less than 4,000 square feet of retail or wholesale space, excluding storage space, and is not one of a chain of stores.

(Mar. 19, 2013, D.C. Law 19-252, § 201, 59 DCR 14932.)

**Legislative history of Law 19-252.** — 19-252, the "Energy Innovation and Savings Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-749. The Bill was adopted on first and second readings on Nov. 1, 2012 and Nov. 15, 2012, respectively. Signed by the Mayor on Dec. 7, 2012, it was assigned Act No. 19-562 and transmitted to

Congress for its review. D.C. Law 19-252, became effective on March 19, 2013.

**Editor's notes.** — Section 301 of D.C. Law 19-252 provided that the Mayor shall issue rules to implement the provisions of the act within 180 days of its effective date [March 19, 2013].

§ 8-1772.02. Commercial property energy conservation.

A commercial property shall keep exterior doors and windows closed when an air conditioner that cools the adjacent area is in operation, except:

(1) During a reasonable period of ingress and egress of people or the delivery or shipping of goods;

(2) Where the door is intended for vehicular access to or for a loading dock;

(3) When an emergency situation exists requiring an exterior door or window to be kept open; or

(4) When a commercial property implements an alternative strategy authorized by the Mayor through regulation as a reasonably equivalent means of conserving energy.

(Mar. 19, 2013, D.C. Law 19-252, § 202, 59 DCR 14932.)

**Section references.** — This section is referenced in § 8-1772.03.

**Legislative history of Law 19-252.** — See note to § 8-1772.01.

### § 8-1772.03. Penalties.

(a) If the Mayor determines that a violation of this chapter has occurred, the person in violation shall be subject to the penalties set forth in this section.

(b) The Mayor shall impose a penalty on retail establishments in violation of this chapter, which shall be a class 4 infraction under the schedule of fines in Chapter 32 of Title 16 of the District of Columbia Municipal Regulations (16 DCMR § 3200 et seq.)

(c) Retail establishments shall not be fined more than once in a 24-hour period for a violation of § 8-1772.02.

(d) If payment of any amounts due under this section is not received by or before the due date, a penalty shall be added as provided by the Mayor through rulemaking.

(e) A violation of this chapter shall be a civil infraction for purposes of Chapter 18 of Title 2 [§ 2-1801.01 et seq.] (“Civil Infractions Act”). Civil fines, penalties, and fees may be imposed as sanctions for an infraction of the provisions of this chapter, or the rules issued under authority of this chapter, pursuant to the Civil Infractions Act. Adjudication of infractions shall be pursuant to the Civil Infractions Act.

(f) The enforcement of this chapter shall be administered by the Director of the District Department of the Environment.

(Mar. 19, 2013, D.C. Law 19-252, § 203, 59 DCR 14932.)

**Legislative history of Law 19-252.** — See note to § 8-1772.01.

CHAPTER 17N. SUSTAINABLE ENERGY.

*Subchapter I. Definitions*

Sec.

8-1773.01. Definitions.

*Subchapter II. Management of Sustainable Energy Programs*

8-1774.01. Contract with a Sustainable Energy Utility.

8-1774.02. Structure of the SEU contract.

8-1774.03. Establishment of a Sustainable Energy Utility Advisory Board.

8-1774.04. Operations of the Sustainable Energy Utility Advisory Board.

Sec.

8-1774.05. Implementation of the Sustainable Energy Utility contract.

8-1774.06. Sustainable energy branding.

8-1774.07. Electric company.

8-1774.08. Natural gas company.

8-1774.09. Renewable energy incentive program.

8-1774.10. Sustainable Energy Trust Fund.

8-1774.11. Energy Assistance Trust Fund.

8-1774.12. [Reserved].

8-1774.13. Solar and Renewable Home Improvement Financing Proposal.

8-1774.14. Discount program for low-income electricity customers.

*Subchapter I. Definitions.*

§ 8-1773.01. Definitions.

For the purposes of this chapter, the term:

(1) "Commission" means the Public Service Commission.

(2) "District Department of the Environment," "DDOE," or "Energy Office" means the District Department of the Environment Energy Office.

(3) "Electric company" shall have the same meaning as in § 34-207.

(4) "Energy Assistance Trust Fund" or "EATF" means the Energy Assistance Trust Fund established under § 8-1774.11.

(5) "Existing electricity programs" means those programs operated by the District Department of the Environment under the names "Weatherization Plus," "Low Income Appliance Replacement Program," and "Weatherization and Rehabilitation."

(6) "Existing low-income programs" means those programs operated under the names "LIHEAP Expansion and Energy Education" and "Residential Essential Service Expansion and Awareness Program."

(7) "Existing natural gas programs" means those programs proposed or operated by the District Department of the Environment under the names "Heating System Repair, Replacement, and Tune-Up Program," "Residential Weatherization and Efficiency Program," "Energy Awareness Program". and "Saving Energy in D.C. Schools."

(8) "Fiscal Agent" means the Office of the Chief Financial Officer.

(9) "Gas company" shall have the same meaning as in § 34-209.

(10) "Green-collar jobs" means jobs in the environmental sector of the economy which jobs may involve the implementation of environmentally-conscious design, policy, or technology.

(11) "OIML" means the International Association of Legal Metrology.

(12) "Request for Proposals" or "RFP" means the request for proposals prepared by the District Department of the Environment for the SEU.

(13) "Residential Aid Discount" means the utility discount program offered by the electric company to low-income electricity customers in the District of Columbia.



(14) “Residential Essential Service” means the utility discount program offered by the gas company to low-income natural gas customers in the District of Columbia.

(15) “Solar thermal systems” means systems which utilize the sun’s radiation to efficiently heat fluids or air.

(16) “SRCC” means the Solar Rating and Certification Corporation.

(17) “Substantial improvement” has the same meaning as in section 202 of Title 12J of the District of Columbia Municipal Regulations (12J DCMR § 202).

(18) “Sustainable Energy Trust Fund” or “SETF” means the Sustainable Energy Trust Fund established under § 8-1774.10.

(19) “Sustainable Energy Utility” or “SEU” means the private contractor selected to develop, coordinate, and provide programs for the purpose of promoting the sustainable use of energy in the District of Columbia.

(20) “Sustainable Energy Utility Advisory Board”, “Advisory Board”, or “Board” means the board established under § 8-1774.03 that advises the DDOE on the procurement of the contract with the SEU and monitors the progress of the SEU under its contract.

(21) “Temporary electricity programs” means those programs operated by the District Department of the Environment under the names “Affordable Housing Energy Efficient Rebate Program”, “Weatherization Rehabilitation Asset Partnership”, and “Home Energy Rating System”.

(22) “Utility or energy company” means a company distributing, supplying, or transmitting electricity or natural gas in the District of Columbia.

(Oct. 22, 2008, D.C. Law 17-250, § 101, 55 DCR 9225; July 23, 2010, D.C. Law 18-195, § 2(a), 57 DCR 4519; Sept. 26, 2012, D.C. Law 19-171, § 62(a), 59 DCR 6190.)

**Effect of amendments.** — D.C. Law 18-195 rewrote par. (6), which had read as follows: “(6) ‘Existing low-income programs’ means those programs operated by the District Department of the Environment under the names ‘LIHEAP Expansion and Energy Education,’ ‘RAD Expansion,’ ‘RAD Arrearages Retirement and Education Program,’ and ‘Residential Essential Service Expansion and Awareness Program.’”

The 2012 amendment by D.C. Law 19-171 substituted “Green-collar” for “Green collar” in (10); and validated previously made technical corrections in (3) and (22).

**Emergency legislation.** — For temporary (90 day) addition, see § 101 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

For temporary (90 day) amendment of section, see § 2(a) of Residential Aid Discount Subsidy Stabilization Emergency Amendment Act of 2010 (D.C. Act 18-398, May 10, 2010, 57 DCR 4362).

**Legislative history of Law 17-250.** — Law 17-250, the “Clean and Affordable energy

Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-492 which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-497 and transmitted to both Houses of Congress for its review. D.C. Law 17-250 became effective on October 22, 2008.

**Legislative history of Law 18-195.** — Law 18-195, the “Residential Aid Discount Subsidy Stabilization Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-493, which was referred to the Committee on Government Operations and the Environment. The Bill was adopted on first and second readings on April 20, 2010, and May 4, 2010, respectively. Signed by the Mayor on May 19, 2010, it was assigned Act No. 18-407 and transmitted to both Houses of Congress for its review. D.C. Law 18-195 became effective on July 23, 2010.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of

2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C.

Law 19-171 became effective on September 26, 2012.

**Editor’s notes.** — Section 801 of D.C. Law 17-250 provided: “Sec. 801. Applicability. This act shall apply on the later of October 1, 2008, or the effective date of this act.”

## *Subchapter II. Management of Sustainable Energy Programs.*

### **§ 8-1774.01. Contract with a Sustainable Energy Utility.**

(a) The Mayor, by, and through DDOE, shall contract with a SEU to conduct sustainable energy programs on behalf of the District of Columbia.

(b) The SEU shall be a private entity.

(c) The SEU shall conduct the sustainable energy programs under a brand name to be determined by the District Department of the Environment.

(d) The SEU contract shall provide that the SEU shall, at a minimum, achieve the following:

(1) Reduce per-capita energy consumption in the District of Columbia;

(2) Increase renewable energy generating capacity in the District of Columbia;

(3) Reduce the growth of peak electricity demand in the District of Columbia;

(4) Improve the energy efficiency of low-income housing in the District of Columbia;

(5) Reduce the growth of the energy demand of the District of Columbia’s largest energy users; and

(6) Increase the number of green-collar jobs in the District of Columbia.

(e) The SEU contract shall be funded by the SETF. The SEU contract may also be funded by any other source of funding available to the Mayor, including:

(1) Federal funds;

(2) Private funds, subject to DDOE approval; and

(3) Other District funds.

(f) All funds used to support the SEU contract shall be managed by the Fiscal Agent.

(g) The SEU contract shall permit coordination with any similar private entity operating in an adjacent or nearby jurisdiction.

(h) The use of private grant money by the SEU shall be subject to DDOE approval.

(i) Notwithstanding the provisions of Unit A of Chapter 3 of Title 2 [§ 2-301.01 et seq.], the SEU contract shall be awarded pursuant to the procedure set forth under this subchapter.

(Oct. 22, 2008, D.C. Law 17-250, § 201, 55 DCR 9225.)

**Section references.** — This section is referenced in § 8-1774.02, § 8-1774.03, and § 8-1774.04.

**Emergency legislation.** — For temporary (90 day) addition, see § 201 of Clean and Af-

fordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

**Legislative history of Law 17-250.** — For Law 17-250, see notes following § 8-1773.01.



## § 8-1774.02. Structure of the SEU contract.

- (a) The initial SEU contract shall be for a period of not less than 5 years.
- (b) The SEU contract shall be funded as provided in § 8-1774.01(e).
- (c) The SEU contract shall be performance-based and shall provide financial incentives for the SEU to surpass the performance benchmarks set forth in the SEU contract. The SEU contract shall also provide financial penalties to be applied to the SEU if the SEU fails to meet the required performance benchmarks.
- (d) The SEU contract shall require that the SEU energy efficiency programs shall, when taken as a whole, meet the societal benefit test on an annual and contract-term basis.
- (e) Each bid shall detail how the contractor proposes to nearly meet, meet, or exceed each performance benchmark. The performance benchmarks shall be set forth in the bid.
- (f) The SEU contract shall permit the programs, benchmarks, and level of funding to be changed at any time with the approval of both the SEU and the DDOE. No change to the funding shall allow the Mayor to exceed the SETF funding limits set forth in § 8-1774.10.
- (g) The SEU contract shall be revocable if the SEU fails to meet the performance benchmarks of the contract.
- (h) The SEU contract shall provide that the annual expenditure on natural gas-related programs shall be no less than 75%, and no greater than 125%, of the amount provided in the contract from the assessment on the natural gas company.
- (i) The SEU contract shall provide that the expenditure on electricity-related programs shall be no less than 75%, and no greater than 125%, of the amount provided in the contract from the assessment on the electricity company.
- (j) Subsections (h) and (i) shall not apply to funds from a source other than an assessment on the gas company or the electric company.
- (k) The SEU contract shall provide that the SEU shall submit, to the DDOE and Board, a quarterly report detailing expenditures under the contract and performance of SEU programs.

(Oct. 22, 2008, D.C. Law 17-250, § 202, 55 DCR 9225; Mar. 31, 2011, D.C. Law 18-331, § 3(a), 58 DCR 22.)

**Section references.** — This section is referenced in § 8-1774.03.

**Effect of amendments.** — D.C. Law 18-331, in subsec. (d), substituted “energy efficiency programs” for “program”.

**Temporary Amendment of Section.** — Section 2(a) of D.C. Law 18-269, in subsec. (d), substituted “energy efficiency programs” for “program”.

Section 4(b) of D.C. Law 18-269 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 202 of Clean and Af-

fordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

For temporary (90 day) amendment of section, see § 2(a) of Sustainable Energy Utility Emergency Amendment Act of 2010 (D.C. Act 18-521, July 30, 2010, 57 DCR 7999).

**Legislative history of Law 17-250.** — For Law 17-250, see notes following § 8-1773.01.

**Legislative history of Law 18-331.** — Law 18-331, the “Sustainable Energy Utility Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-932, which was referred to the Committee on Government



Operations and the Environment. The Bill was adopted on first and second readings on November 23, 2010, and December 7, 2010, respectively. Signed by the Mayor on December 28,

2010, it was assigned Act No. 18-653 and transmitted to both Houses of Congress for its review. D.C. Law 18-331 became effective on March 31, 2011.

### § 8-1774.03. Establishment of a Sustainable Energy Utility Advisory Board.

(a) There is established a Sustainable Energy Utility Advisory Board whose purpose shall be to:

(1) Provide advice, comments, and recommendations to the DDOE and Council regarding the procurement and administration of the SEU contract described in §§ 8-1774.01 and 8-1774.02[;]

(2) Advise the DDOE on the performance of the SEU under the SEU contract; and

(3) Monitor the performance of the SEU under the SEU contract.

(b) The Board shall be comprised of:

(1) The Mayor, or his or her designee, who shall chair the Advisory Board;

(2) The People's Counsel or his or her designee;

(3) The Chair of the Public Service Commission or his or her designee;

(4) One member appointed by the Chairman of the Council committee with oversight of the Energy Office;

(5) One member appointed by the Chairman of the Council;

(6) One member, appointed by the Mayor, representing the renewable energy industry;

(7) One member, appointed by the Mayor, representing an environmental group;

(8) One member, appointed by the Mayor, representing the low-income community;

(9) One member, appointed by the Mayor, representing the building construction industry;

(10) One member, appointed by the Mayor, representing the building management industry;

(11) One member, appointed by the Mayor, representing the economic development community with particular expertise in the generation of green-collar jobs;

(12) One member, appointed by the Mayor, representing the electric company; and

(13) One member, appointed by the Mayor, representing the gas company.

(c) Each member of the Advisory Board appointed by the Mayor or Council shall have demonstrable expertise in energy efficiency or renewable energy.

(d) Board members shall be entitled to reimbursement for expenses, including transportation, parking, mileage expenses, and conference admission fees incurred in the performance of official duties of the Board. The reimbursement shall be limited to \$2,000 per board member per year.

(e) Each member of the Board shall serve a 3-year term.

(f) The Mayor, Council Chairman, or Chairman of the Council committee with oversight of the Energy Office may replace any appointee at any time, but

shall not replace the appointee to any individual position more than 2 times per calendar year.

(g) Any Board member who is an employee of the District government, or who serves on the Board as the representative of a particular organization, group, business, or other entity, including an elected official, shall be removed from the Board upon leaving the employment of the District government, elected office, or other entity, as applicable.

(Oct. 22, 2008, D.C. Law 17-250, § 203, 55 DCR 9225.)

**Section references.** — This section is referenced in § 8-1773.01 and § 8-1774.10.

**Emergency legislation.** — For temporary (90 day) addition, see § 203 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

For temporary (90 day) amendment of section, see § 2 of Sustainable Energy Utility Emergency Amendment Act of 2009 (D.C. Act 18-178, August 3, 2009, 56 DCR 6893).

**Legislative history of Law 17-250.** — For Law 17-250, see notes following § 8-1773.01.

## § 8-1774.04. Operations of the Sustainable Energy Utility Advisory Board.

(a) Within 45 days after October 22, 2008, the Mayor, Council Chairman, and Chairman of the Council committee with oversight of the Energy Office shall appoint the respective members of the Board.

(b) Within 120 days after October 22, 2008, the Board shall adopt rules and procedures governing its meetings and decisionmaking processes. The procedures shall include a formal means for members of the Board to submit their dissent from the recommendations of the Board with the comments of the Board provided to the DDOE.

(c) Within 210 days after October 22, 2008, the Board shall recommend to the Mayor performance benchmarks for the SEU contract based on the requirements set forth in § 8-1774.01.

(d) Within 60 days after the submission of a draft RFP to the Board by the DDOE, pursuant to § 8-1774.05(b), the Board shall submit to the DDOE and Council comments on the draft RFP.

(e) Repealed.

(f) During the term of a SEU contract, the Board shall meet quarterly with representatives from the SEU to monitor the performance of the SEU and programs operated by the SEU.

(g) The Board shall present a report on the progress of the SEU to the Council annually, with the 1st report being due 30 days after the conclusion of the 1st year of the SEU contract. The DDOE shall make this document available to the public on its website within 10 days of its submission to the Council.

(h) The Board may convene any subcommittees and working groups it considers appropriate without any limitation as to the membership of such groups.

(i) All Board meetings shall be subject to the open meeting provisions contained in § 1-207.42.

(j) The DDOE shall provide staff resources to the Board and coordinate the

involvement of staff from the Public Service Commission, Office of the People's Counsel, and any other appropriate agency or organization as necessary for the Board to fulfill its mandate.

(Oct. 22, 2008, D.C. Law 17-250, § 204, 55 DCR 9225; Mar. 31, 2011, D.C. Law 18-331, § 3(b), 58 DCR 22.)

**Section references.** — This section is referenced in § 8-1774.05.

**Effect of amendments.** — D.C. Law 18-331 repealed subsec. (e), which had read as follows: “(e) Within 60 days of the final submission of bids for the contract for the SEU, the Board shall submit to the DDOE and Council comments on the bids submitted for the SEU contract.”

**Temporary Amendment of Section.** — Section 2(b) of D.C. Law 18-269 repealed subsec. (e).

Section 4(b) of D.C. Law 18-269 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 204 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

For temporary (90 day) amendment of section, see § 2(b) of Sustainable Energy Utility Emergency Amendment Act of 2010 (D.C. Act 18-521, July 30, 2010, 57 DCR 7999).

**Legislative history of Law 17-250.** — For Law 17-250, see notes following § 8-1773.01.

**Legislative history of Law 18-331.** — For history of Law 18-331, see notes under § 8-1774.02.

## § 8-1774.05. Implementation of the Sustainable Energy Utility contract.

(a) The District Department of the Environment shall be responsible for the procurement and monitoring of the contract for the SEU, including:

- (1) Drafting and revising the RFP for the SEU;
- (2) Staffing the Advisory Board;
- (3) Accepting the bids for the SEU contract;
- (4) Reviewing bids for the SEU contract; and

(5) All other responsibilities not otherwise expressly delegated to another entity for purposes of operation under this chapter.

(b) Within 180 days of the Board's recommendation of performance benchmarks for the SEU contract, pursuant to § 8-1774.04(c), the DDOE shall prepare a draft RFP and submit the RFP to the Board for comments. In preparing the RFP, the DDOE shall consult with at least one person or organization that has had experience in the drafting of a RFP for the state-wide provision of end-user energy efficiency services, and shall hold an industry day to solicit the advice and input of private entities that may bid on the contract.

(c) Within 60 days of the receipt of the Board's comments on the RFP pursuant to § 8-1774.04(d), the DDOE shall revise the RFP to the extent it considers necessary and shall issue the RFP for bids for such period as it considers appropriate.

(d) Repealed.

(e) If the DDOE determines that there is not a sufficient bid, DDOE shall modify the RFP, if necessary, and solicit additional bids.

(f) The DDOE shall maintain the brand name adopted pursuant to § 8-1774.06.

(g) The DDOE shall administer the transition from one SEU to another.



(h) Prior to the execution of the contract with the SEU, \$775,000 shall be allocated annually for the purposes of:

- (1) Preparing the RFP;
- (2) Staffing the Board;
- (3) Maintaining the brand name adopted pursuant to § 8-1774.06; and
- (4) Operating the renewable energy rebate program established by § 8-1774.09.

(i) After the execution of the contract with the SEU, 10% of the annual cost of the SEU contract shall be allocated to DDOE for administrative costs.

(j) The DDOE shall submit to the Council, within 30 days following the end of each fiscal year, a report detailing the expenditures of money from the SETF and EATF during the previous fiscal year. The DDOE shall make this document available to the public on its website within 10 days of its receipt.

(k) The DDOE shall commission, on an annual basis, an independent review of the performance and expenditures of the SEU and shall provide the results of this review to the Board and Council within 6 months of the conclusion of each year of the SEU contract.

(Oct. 22, 2008, D.C. Law 17-250, § 205, 55 DCR 9225; Mar. 31, 2011, D.C. Law 18-331, § 3(c), 58 DCR 22; Apr. 8, 2011, D.C. Law 18-370, § 612(a), 58 DCR 1008.)

**Section references.** — This section is referenced in § 8-1774.04 and § 8-1774.10.

**Effect of amendments.** — D.C. Law 18-331 repealed subsec. (d), which had read as follows: “(d) Within 30 days of the completion of the bidding period, the DDOE shall submit the bids to the Board. The Board shall have 30 days to recommend a bidder or, failing the submission of a bid considered adequate by the Board, recommend the modification of the RFP.”

D.C. Law 18-370, in subsec. (h), substituted “\$775,000” for “\$1 million”.

**Temporary Amendment of Section.** — Section 2(c) of D.C. Law 18-269 repealed subsec. (d).

Section 4(b) of D.C. Law 18-269 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 205 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

For temporary (90 day) amendment of section, see § 2(c) of Sustainable Energy Utility Emergency Amendment Act of 2010 (D.C. Act 18-521, July 30, 2010, 57 DCR 7999).

For temporary (90 day) amendment of sec-

tion, see § 612(a) of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

**Legislative history of Law 17-250.** — For Law 17-250, see notes following § 8-1773.01.

**Legislative history of Law 18-331.** — For history of Law 18-331, see notes under § 8-1774.02.

**Legislative history of Law 18-370.** — Law 18-370, the “Fiscal Year 2011 Supplemental Budget Support Act of 2010”, was introduced in Council and assigned Bill No. 18-1100, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 27, 2011, it was assigned Act No. 18-721 and transmitted to both Houses of Congress for its review. D.C. Law 18-370 became effective on April 8, 2011.

**Short title.** — Short title: Section 611 of D.C. Law 18-370 provided that subtitle B of title VI of the act may be cited as “Clean and Affordable Energy Second Amendment Act of 2010”.

**Editor’s notes.** — Section 613 of D.C. Law 18-370 provided: “Sec. 613. Applicability. This subtitle shall apply as of October 1, 2010.”

## § 8-1774.06. Sustainable energy branding.

(a) Within 90 days after October 22, 2008, the DDOE shall determine a

brand name for the provision of energy efficiency and renewable energy services in the District of Columbia.

(b) Within 90 days after October 22, 2008, the DDOE shall establish and maintain a website for the brand, with a web address of the brand name bracketed by www. and .org, .com, or .gov. The purpose of this website shall be to serve as a portal that will provide information about every energy efficiency and renewable energy program available to District residents and businesses, including those offered by:

- (1) The DDOE;
- (2) The SEU;
- (3) The electricity or natural gas companies;
- (4) The federal government;
- (5) Nonprofit entities; and

(6) Any contractors or subcontractors for any of the entities set forth in paragraphs (1) through (5) of this subsection.

(c) The DDOE shall provide a phone number that shall serve as a hotline for the brand during normal business hours.

(d) The DDOE shall be responsible for working with providers of energy efficiency and renewable energy services to ensure that all information is accurate and up-to-date.

(Oct. 22, 2008, D.C. Law 17-250, § 206, 55 DCR 9225.)

**Section references.** — This section is referenced in § 8-1774.05, § 8-1774.09, and § 8-1778.44.

**Emergency legislation.** — For temporary (90 day) addition, see § 206 of Clean and Af-

fordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

**Legislative history of Law 17-250.** — For Law 17-250, see notes following § 8-1773.01.

## § 8-1774.07. Electric company.

(a) Within 90 days of the completion of the record on Formal Case 945, the Commission shall issue an order regarding the demand-side management programs proposed by the electric company.

(b) In considering Formal Case 945, the Commission shall seek to approve those programs that:

- (1) Can be implemented most quickly;
- (2) Take advantage of the electric company's frequent contact with customers; and
- (3) Do not replicate the efforts of sustainable energy programs operated by the DDOE.

(c) The programs that the Commission approves may be funded by the SETF under § 8-1774.10.

(d)(1) Within 30 days after the execution of a contract with the SEU, the electric company shall disclose, or allow access to, the aggregate energy use data for every rate class for electric company customers in the District of Columbia. Customer-specific information, including the customer's name, account number, service address, phone number, and energy use data, shall not be provided without the customer's express written consent.

(2) The electric company shall ensure the privacy of any and all customer



information, including the electric company customer's name, account number, service address, billing address, phone number, and energy use data, in making the disclosure. The SEU shall not sell or otherwise disclose any customer or billing information to any third party without express written authorization from the customer.

(3) The electric company shall not be liable for any damages resulting from its provision of customer energy use data to the SEU absent gross negligence. The SEU shall be liable for damages to the customer for any unauthorized use of customer information or data, including the electric company customer's name, account number, service address, billing address, phone number, and energy use data.

(e) Within one year after October 22, 2008, all energy efficiency and renewable energy programs administered by the electric company and funded by the SETF shall be operated in coordination with the brand managed by the DDOE. To effectuate this mandate, the electric company shall:

(1) Prominently display the name and logo of the brand name on all advertisements of the programs;

(2) Include the website and phone number for the DDOE brand on all advertisements of the programs;

(3) Post a link to the brand website on all company webpages related to energy efficiency and renewable energy; and

(4) Provide timely, accurate, and comprehensive information regarding its programs to the DDOE to permit DDOE to include such information in material provided to the public.

(Oct. 22, 2008, D.C. Law 17-250, § 207, 55 DCR 9225.)

**Emergency legislation.** — For temporary (90 day) addition, see § 207 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

**Legislative history of Law 17-250.** — For Law 17-250, see notes following § 8-1773.01.

## § 8-1774.08. Natural gas company.

(a) Within 30 days after the execution of a contract with the SEU, the gas company shall disclose, or allow access to, the aggregate energy use data for every rate class for gas company customers in the District of Columbia. Customer-specific information, including the customer's name, account number, service address, phone number, and energy use data, shall not be provided without the customer's express written consent.

(b) The gas company shall ensure the privacy of any and all customer information, including the gas company customer's name, account number, service address, billing address, phone number, and energy use data, in making the disclosure. The SEU shall not sell or otherwise disclose any customer or billing information to any third party without express written authorization from the customer.

(c) The gas company shall not be liable for any damages resulting from its provision of customer energy use data to the SEU absent gross negligence. The SEU shall be liable for damages to the customer for any unauthorized use of



customer information or data, including the gas company customer's name, account number, service address, billing address, phone number, and energy use data.

(Oct. 22, 2008, D.C. Law 17-250, § 208, 55 DCR 9225.)

**Emergency legislation.** — For temporary (90 day) addition, see § 208 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

**Legislative history of Law 17-250.** — For Law 17-250, see notes following § 8-1773.01.

## § 8-1774.09. Renewable energy incentive program.

(a) There is established a rebate program that shall provide funding to the owners of the following new renewable energy generation systems in the District of Columbia:

- (1) Solar photovoltaic;
- (2) Solar thermal;
- (3) Geothermal;
- (4) Wind;
- (5) Biomass; and
- (6) Methane or waste-gas capture.

(b) The program shall provide funding in the following amounts:

- (1) The amount of \$3 for each of the first 3,000 installed watts or watt-equivalents of capacity;
- (2) The amount of \$2 for each of the next 7,000 installed watts or watt-equivalents of capacity; and
- (3) The amount of \$1 for each of the next 10,000 installed watts or watt-equivalents of capacity.

(c) The program shall be administered by DDOE and shall operate until the end of fiscal year 2012.

(d) The program shall receive funding from the SETF as set forth in § 8-1774.10.

(e) DDOE shall allocate  $\frac{1}{2}$  of the funds available annually every 6 months.

(f) DDOE shall only fund systems installed in the District of Columbia.

(g) Applications shall be considered and approved or rejected in the order in which they are received. Rebate payments shall be awarded immediately upon receipt by DDOE of the invoice for the purchase of the renewable energy generating equipment.

(h)(1) An owner shall have 6 months from the date of the approval of its rebate application to complete the installation.

(2) DDOE shall visit each project site to verify the completion of each project upon the earlier of 14 days of notification by the owner of the completion of the project or 6 months after DDOE approves the project for funding. If the project has not been completed, the DDOE may, in its discretion, allow the owner up to an additional 6 months to complete the installation. If the owner fails to complete the installation within the period allowed under paragraph (1) of this subsection, it shall return the amount of the rebate within

30 days after the expiration of such period. If the owner fails to return the rebate money within 30 days after the expiration of such period, this subsection shall constitute a lien on all of the property, real or personal, of the owner to secure repayment of the rebate.

(i) Within 90 days after October 22, 2008, the DDOE shall post, and update monthly, on the website required by § 8-1774.06, information about the rebate program, including:

- (1) The date that funds shall be made available;
- (2) A printable copy of the rebate application determined by DDOE;
- (3) The amount of rebate funds remaining to be awarded; and
- (4) The amount of rebate funds awarded.

(j) The application form for the rebate shall be substantially the same as the application for the analogous program in use in Maryland as of the date of the program.

(k) Within 90 days after October 22, 2008, the DDOE shall define a method for converting the heating and cooling capacity of solar thermal and geothermal systems to kilowatt equivalents to permit such systems to qualify for rebates under this program.

(l) Subject to the limitations in subsection (b) of this section, the Mayor may issue guidelines that adjust the rebate amounts of the incentive program to reflect market conditions and the prevailing prices of renewable energy systems.

(m) DDOE may pay for the installation of monitoring and communications systems, for collecting generation data from renewable energy systems funded by the rebate program and transmitting it to a designated web site; provided, that the system owner shall permit the DDOE to make the data publicly accessible on the DDOE website.

(Oct. 22, 2008, D.C. Law 17-250, § 209, 55 DCR 9225; Mar. 31, 2011, D.C. Law 18-331, § 3(d), 58 DCR 22.)

**Section references.** — This section is referenced in § 8-1774.05, § 8-1774.10, and § 47-1803.02.

**Effect of amendments.** — D.C. Law 18-331 rewrote subsec. (l), which had read as follows: “(l) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to modify the incentive program as market conditions dictate.”

**Temporary Amendment of Section.** — Section 2(a) of D.C. Law 18-214, in subsec. (e), substituted “every 6 months; provided, that this subsection shall not apply to fiscal year 2011” for “every 6 months”.

Section 4(a) of D.C. Law 18-214 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 209 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 150656).

For temporary (90 day) amendment of section, see § 2(a) of Renewable Energy Incentive Program Fund Balance Rollover Emergency Amendment Act of 2010 (D.C. Act 18-422, May 21, 2010, 57 DCR 4767).

For temporary amendment of (c), see § 2(a) of the Renewable Energy Incentive Program Emergency Amendment Act of 2012, (D.C. Act 19-569, December 18, 2012, 59 DCR 15068), applicable upon the inclusion of its fiscal effect in an approved budget and financial plan.

For temporary amendment of (c)(7), see § 2(b) of the Renewable Energy Incentive Program Emergency Amendment Act of 2012, (D.C. Act 19-569, December 18, 2012, 59 DCR 15068), applicable upon the inclusion of its fiscal effect in an approved budget and financial plan.

**Legislative history of Law 17-250.** — For Law 17-250, see notes following § 8-1773.01.

**Legislative history of Law 18-331.** — For history of Law 18-331, see notes under § 8-1774.02.

**Legislative history of Law 19-262.** — Law 19-262, the “Sustainable DC Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-756. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 16, 2013, it was assigned Act No. 19-615 and transmitted to Congress for its review. D.C. Law 19-262 became effective on Apr. 20, 2013.

**Editor’s notes.** — Section 122(a) of D.C. Law 19-262 would have substituted “2013” for “2012” in (c).

Applicability of D.C. Law 19-262, § 122: Section 401 of D.C. Law 19-262 provided that § 122 of the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register. The remaining sections shall apply as of April 20, 2013, unless otherwise noted.

## § 8-1774.10. Sustainable Energy Trust Fund.

(a)(1) There is established as a nonlapsing fund the Sustainable Energy Trust Fund, which shall be used solely for the purposes stated in subsection (c) of this section. The Sustainable Energy Trust Fund shall be funded by an assessment on the natural gas and electric companies under subsection (b) of this section and from the sale of credits associated with the Regional Greenhouse Gas Initiative or any successor program. All funds collected from these sources shall be deposited into the SETF and shall be disbursed by the Fiscal Agent.

(2) All funds deposited into the Sustainable Energy Trust Fund, and any interest earned on the funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (a) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(b)(1) There is imposed upon the natural gas company an assessment calculated on sales on a per-therm basis as follows:

- (A) The amount of \$.011 in fiscal year 2009;
- (B) The amount of \$.012 in fiscal year 2010;
- (C) The amount of \$.014 in fiscal year 2011 and each year thereafter.

(2) There is imposed upon the electric company an assessment calculated on sales on a per-kilowatt hour basis as follows:

- (A) The amount of \$.0011 in fiscal year 2009;
- (B) The amount of \$.0013 in fiscal year 2010;
- (C) The amount of \$.0015 in fiscal year 2011 and each year thereafter.

(3) The assessments shall be paid to the Fiscal Agent before the 21st day of each month, beginning in November, 2008, or the 1st full month following October 22, 2008, whichever is later, for sales for the preceding billing period.

(4) The assessment shall be applied to the sale of every kilowatt hour and therm in the District, except to those sold to residents participating in the Residential Essential Service or Residential Aid Discount programs established by the Commission.

(5) Nothing in this subchapter shall be construed to prohibit the electric company or natural gas company from recovering the assessment imposed under paragraphs (1) and (2) of this section, respectively, in its rates as a surcharge on customers’ bills.



(c) The funds in the Sustainable Energy Trust Fund shall be used solely to fund:

- (1) The SEU contract in the following amounts:
  - (A) The amount of \$7.5 million in the 1st year of the contract;
  - (B) The amount of \$15 million in the 2nd year of the contract;
  - (C) The amount of \$17.5 million in the 3rd year of the contract; and
  - (D) The amount of \$20 million in the 4th and each subsequent year of the initial contract, and for each year of any subsequent contract;
- (2) The administration of the SEU contract by DDOE, on an annual basis, equal to 10% of the authorized contract level in that fiscal year;
- (3) An independent review of the performance of the SEU under § 8-1774.05(k) in the amount of \$100,000 annually, beginning in fiscal year 2012;
- (4) The activities of the SEU Advisory Board under § 8-1774.03 in the amount of \$9,800 annually;
- (5) Existing electricity programs in the amount of \$2.375 million annually for fiscal year 2011;
- (6) Existing natural gas programs in the amount of \$1.073 million for fiscal year 2011;
- (7) Renewable energy incentive program under § 8-1774.09 in the amount of \$1.106 million for fiscal year 2011 and \$2 million in fiscal year 2012, of which up to \$20,000 annually may be used to pay for the installation of monitoring and communications systems;
- (8) Weatherization, appliance replacement, and healthy homes programs for fiscal year 2013 in the amount of \$2 million; and
- (9) Implementation of the EnergyStar® benchmarking program required by § 6-1451.03; provided, that the program does not require an allocation of funds other than those already set forth in this section.

(d) If, at the beginning of a fiscal year, the fund balance of the SETF exceeds the projected annual cost of all programs pursuant to subsection (c) of this section in that fiscal year by at least \$10 million, the Fiscal Agent shall suspend payment and the collection of the SETF assessment, until such excess is estimated by the Fiscal Agent to be \$5 million.

(e) The DDOE shall submit to the Council a quarterly report detailing:

- (1) Expenditures from the SETF; and
- (2) The performance of SETF programs operated by the DDOE.

(Oct. 22, 2008, D.C. Law 17-250, § 210, 55 DCR 9225; July 23, 2010, D.C. Law 18-195, § 2(b), 57 DCR 4519; D.C. Law 18-223, § 6072, Sept. 24, 2010, 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-370, § 612(b), 58 DCR 1008; Sept. 20, 2012, D.C. Law 19-168, § 6072, 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 62(b), 59 DCR 6190; Apr. 20, 2013, D.C. Law 19-262, § 132, 60 DCR 1300.)

**Section references.** — This section is referenced in § 8-1773.01, § 8-1774.02, § 8-1774.07, and § 8-1774.09.

**Effect of amendments.** — D.C. Law 18-195, in subsec. (b)(4), substituted “established by the Commission” for “operated by DDOE”.

D.C. Law 18-223 rewrote subsec. (c).

D.C. Law 18-370, in subsec. (c)(2), substi-

tuted “authorized contract level” for “payments under the contract”; in subsec. (c)(4), substituted “\$9,800” for “\$13,000”; in subsec. (c)(5), substituted “\$2.375 million” for “\$2.773 million”; in subsec. (c)(6), substituted “\$1.073 million” for “\$1.5 million”; and, in subsec. (c)(7), substituted “\$1.106 million” for “\$1.455 million”.

The 2012 amendment by D.C. Law 19-168 added (c)(8); and made a related change.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (c)(3).

The 2013 amendment by D.C. Law 19-262, § 132, added added the paragraph designated herein as (c)(9); and made related changes.

**Temporary Amendment of Section.** — Section 2(a) of D.C. Law 18-56, in subsec. (c), substituted “\$1,874,000” for “\$916,000” in par. (6), deleted “and” at the end of par. (8), substituted a semicolon for a period at the end of par. (9), and added pars. (10) and (11) to read as follows:

“(10) A Small Business Energy Efficiency program in the amount of \$480,000 for fiscal year 2009; and

“(11) A Government Building Energy Efficiency program in the amount of \$2 million for fiscal year 2009.”

Section 4(b) of D.C. Law 18-56 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 18-144 rewrote subsec. (c)(11) to read as follows:

“(11) A Government Building Energy Efficiency program in the amount of \$1,618,750 for fiscal year 2010.”

Section 4(b) of D.C. Law 18-144 provided that the act shall expire after 225 days of its having taken effect.

Section 2(b) of D.C. Law 18-214, in subsec. (c)(8), substituted “systems; provided, that the amount for fiscal year 2010 shall be \$3.167 million; and” for “systems; and”.

Section 4(a) of D.C. Law 18-214 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 19-10, in subsec. (c)(7), substituted “1.806 million” for “1.106 million”.

Section 3 of D.C. Law 19-10 amended Section 6073 of D.C. Law 18-223 by substituting “October 1, 2010” for “October 1, 2011”.

Section 5(b) of D.C. Law 19-10 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 210 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008 55 DCR 10856).

For temporary (90 day) amendment of section, see § 2(a) of Clean and Affordable Energy Fund Balance Emergency Amendment Act of 2009 (D.C. Act 18-108, June 18, 2009, 56 DCR 4932).

For temporary (90 day) amendment of section, see § 2 of Clean and Affordable Energy Fiscal Year 2010 Fund Balance Emergency Amendment Act of 2009 (D.C. Act 18-309, February 3, 2010, 57 DCR 1505).

For temporary (90 day) amendment of section, see § 2(b) of Residential Aid Discount Subsidy Stabilization Emergency Amendment Act of 2010 (D.C. Act 18-398, May 10, 2010, 57 DCR 4362).

For temporary (90 day) amendment of section, see § 2(b) of Renewable Energy Incentive Program Fund Balance Rollover Emergency Amendment Act of 2010 (D.C. Act 18-422, May 21, 2010, 57 DCR 4767).

For temporary (90 day) amendment of section, see § 612(b) of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

For temporary (90 day) amendment of section, see § 2 of Clean and Affordable Energy Fiscal Year 2011 Fund Balance Emergency Amendment Act of 2011 (D.C. Act 19-43, March 26, 2011, 58 DCR 2923).

For temporary (90 day) amendment of § 6073 of D.C. Law 18-223, see § 3 of Clean and Affordable Energy Fiscal Year 2011 Fund Balance Emergency Amendment Act of 2011 (D.C. Act 19-43, March 26, 2011, 58 DCR 2923).

For temporary amendment of (c)(7), see § 2(b) of the Renewable Energy Incentive Program Emergency Amendment Act of 2012, (D.C. Act 19-569, December 18, 2012, 59 DCR 15068), applicable upon the inclusion of its fiscal effect in an approved budget and financial plan.

**Legislative history of Law 17-250.** — For Law 17-250, see notes following § 8-1773.01.

**Legislative history of Law 18-195.** — For Law 18-195, see notes following § 8-1773.01.

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 8-102.05.

**Legislative history of Law 18-370.** — For history of Law 18-370, see notes under § 8-1774.05.

**Legislative history of Law 19-168.** — Law 19-168, the “Fiscal Year 2013 Budget Support Act of 2012,” was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

**Legislative history of Law 19-171.** — See note to § 8-1773.01.

**Legislative history of Law 19-262.** — See note to § 8-1774.09.

**Short title.** — Short title: Section 6071 of D.C. Law 18-223 provided that subtitle H of title VI of the act may be cited as “Clean and Affordable Energy Amendment Act of 2010”.

**Editor’s notes.** — Section 6073 of D.C. Law 18-223 provided: “This subtitle shall apply as of October 1, 2011.”



Section 613 of D.C. Law 18-370 provided: “Sec. 613. Applicability. This subtitle shall apply as of October 1, 2010.”

Section 212(a)(2) of D.C. Law 17-250 provided: “(2) One-half of the funds remaining in the Reliable Energy Trust Fund shall be transferred to the Sustainable Energy Trust Fund and ½ of the funds shall be transferred to the Energy Assistance Fund.”

Section 212(b)(2) of D.C. Law 17-250 provided: “(2) One-half of the funds remaining in the Natural Gas Trust Fund shall be transferred to the Energy Assistance Trust Fund and ½ of the funds shall be transferred to the Sustainable Energy Trust Fund.”

Section 3 of D.C. Law 18-195 provided: “Sec. 3. Applicability. Section 2(b) shall apply as of June 1, 2010.”

Section 122(b)(1) of D.C. Law 19-262 would have substituted “the amount of \$1.106 million for fiscal year 2011, \$2 million in fiscal year 2012, and \$1 million for fiscal year 2013” for “the amount of \$1.106 million for fiscal year 2011 and \$2 million in fiscal year 2012” in (c)(7).

Applicability of D.C. Law 19-262, § 122: Section 401 of D.C. Law 19-262 provided that § 122 of the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register. The remaining sections shall apply as of April 20, 2013, unless otherwise noted.

## § 8-1774.11. Energy Assistance Trust Fund.

(a)(1) There is established as a nonlapsing fund the Energy Assistance Trust Fund, which shall be used solely for the purposes stated in subsection (c) of this section. The Energy Assistance Trust Fund shall be funded by an assessment on the natural gas and electric companies under subsection (b) of this section. All funds collected from these sources shall be deposited into the EATF and be disbursed by the Fiscal Agent.

(2) All funds deposited into the Energy Assistance Trust Fund, and any interest earned on the funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (a) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(b)(1) There is imposed upon sales of the gas company an assessment of \$.006 per therm.

(2) There is imposed upon the sales of the electric company an assessment of \$.0000607 per-kilowatt hour; provided, that there is imposed upon the sales of the electric company an additional assessment of \$.000069 per-kilowatt hour for the months of June through September 2010.

(3) The assessments shall be paid to the Fiscal Agent before the 21st day of each month, beginning in November, 2008, or the first full month following October 22, 2008, whichever is later, for sales for the preceding billing period.

(4) The assessment shall be applied to the sale of every kilowatt hour and therm in the District, except sales to residents participating in the Residential Essential Service or Residential Aid Discount programs established by the Commission.

(5) Nothing in this subchapter shall be construed to prohibit the electric company or natural gas company from recovering the assessment imposed under paragraphs (1) and (2) of this section, respectively, in its rates as a surcharge on customers' bills.

(c) The Energy Assistance Trust Fund shall be used solely to fund the existing low-income programs in the amount of \$2.409 million in fiscal year 2011, and \$2.6 million annually thereafter.



(d) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to modify the assessments under subsection (b) of this section and the programs funded by the EATF.

(e) The DDOE shall submit to the Council a quarterly report detailing:

(1) Expenditures from the EATF; and

(2) The performance of EATF programs operated by the DDOE.

(Oct. 22, 2008, D.C. Law 17-250, § 211, 55 DCR 9225; July 23, 2010, D.C. Law 18-195, § 2(c), 57 DCR 4519; Apr. 8, 2011, D.C. Law 18-370, § 612(c), 58 DCR 1008.)

**Section references.** — This section is referenced in § 8-1773.01.

**Effect of amendments.** — D.C. Law 18-195 rewrote subsecs. (b)(2) and (c); and, in subsec. (b)(4), substituted “established by the Commission” for “operated by DDOE”.

D.C. Law 18-370 rewrote subsec. (c), which had read as follows: “(c) The Energy Assistance Trust Fund shall be used solely to fund the existing low-income programs in the amount of \$2.3 million annually; provided, that the EATF shall also be used to fund the Residential Aid Discount program in the amount of \$5.2 million in fiscal year 2010. The Commission may examine and reconcile any differences between the actual discount provided to customers under the Residential Aid Discount program in fiscal year 2010 and the amount collected through the assessment imposed by subsection (b) of this section. If the assessment for June through September 2010 is not sufficient to fund the program, the Commission may provide for an assessment that allows the electric company to recover the difference from its customers. If the assessment for June through September 2010 is greater than the actual discount, the Commission may require the electric company to return any overcollection to its customers.”

**Temporary Amendment of Section.** — Section 2(b) of D.C. Law 18-56, in subsec. (c)(1), substituted “annually; provided, that an additional \$1,563,000 may be expended in fiscal year 2009” for “annually”.

Section 4(b) of D.C. Law 18-56 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 18-81, in subsec. (b)(2), substituted “\$.0004 per-kilowatt hour; provided, that there is imposed upon the sales of the electric company an additional assessment of \$.0016 per-kilowatt hour for the month of September 2009 only” for “\$.0004 per-kilowatt hour”; in subsec. (c)(2), substituted “annually; provided, that the subsidy shall be in the amount of \$5.207 million for Fiscal Year 2009” for “annually”; and added subsec. (f), which had read as follows:

“(f) The Mayor may make a payment to PEPCO in the amount of \$1,022, 428.16 from

the Energy Assistance Trust Fund as a final accounting and reconciliation for the Fiscal Year 2008 expenditures of the Residential Aid Discount Program.”

Section 4(b) of D.C. Law 18-81 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 211 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

For temporary (90 day) amendment of section, see § 2(b) of Clean and Affordable Energy Fund Balance Emergency Amendment Act of 2009 (D.C. Act 18-108, June 18, 2009, 56 DCR 4932).

For temporary (90 day) amendment of section, see § 2 of Residential Aid Discount Subsidy Stabilization Emergency Amendment Act of 2009 (D.C. Act 18-155, July 28, 2009, 56 DCR 6346).

For temporary (90 day) amendment of section, see § 2(c) of Residential Aid Discount Subsidy Stabilization Emergency Amendment Act of 2010 (D.C. Act 18-398, May 10, 2010, 57 DCR 4362).

For temporary (90 day) amendment of section, see § 612(c) of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

**Legislative history of Law 17-250.** — For Law 17-250, see notes following § 8-1773.01.

**Legislative history of Law 18-195.** — For Law 18-195, see notes following § 8-1773.01.

**Legislative history of Law 18-370.** — For history of Law 18-370, see notes under § 8-1774.05.

**Editor’s notes.** — Section 212(a)(2) of D.C. Law 17-250 provided: “(2) One-half of the funds remaining in the Reliable Energy Trust Fund shall be transferred to the Sustainable Energy Trust Fund and ½ of the funds shall be transferred to the Energy Assistance Fund.”

Section 212(b)(2) of D.C. Law 17-250 provided: “(2) One-half of the funds remaining in the Natural Gas Trust Fund shall be transferred to the Energy Assistance Trust Fund and

½ of the funds shall be transferred to the Sustainable Energy Trust Fund.”

Section 613 of D.C. Law 18-370 provided:

“Sec. 613. Applicability. This subtitle shall apply as of October 1, 2010.”

## § 8-1774.12. [Reserved].

**Editor’s notes.** — Section 212 of D.C. Law 17-250 amended §§ 34-1514 and 34-1651.

## § 8-1774.13. Solar and Renewable Home Improvement Financing Proposal.

(a) Within 90 days after October 22, 2008, the Commission shall open an investigation into mechanisms to make long-term affordable financing available to energy consumers to purchase:

(1) Renewable energy generating systems, including solar thermal and solar photovoltaic panels and geothermal heating and cooling systems; and

(2) Home and business improvements that increase the energy efficiency of buildings, including weatherizing, adequate insulation, efficient doors and windows, and central air conditioning.

(b) The Commission’s investigation shall include the means by which the electric and gas companies’ billing systems can be used to collect payments from individuals to purchase renewable energy generating systems and make energy efficiency improvements to homes and businesses.

(c) Within 60 days after the close of the record of the investigation, the Commission shall issue a report, including findings, on the feasibility of the implementation of the proposal set forth in subsections (a) and (b) of this section.

(Oct. 22, 2008, D.C. Law 17-250, § 213, 55 DCR 9225.)

**Emergency legislation.** — For temporary (90 day) addition, see § 213 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

**Legislative history of Law 17-250.** — For Law 17-250, see notes following § 8-1773.01.

## § 8-1774.14. Discount program for low-income electricity customers.

The Commission shall establish, by order, a discount program for low-income electricity customers in the District. The Commission shall establish the eligibility, funding, and administrative guidelines for the program; provided, that the program shall not be funded from existing District funds, District revenue sources, or District assessments.

(Oct. 22, 2008, D.C. Law 17-250, § 214, as added July 23, 2010, D.C. Law 18-195, § 2(d), 57 DCR 4519.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2(d) of Residential Aid Discount Subsidy Stabilization Emergency Amendment Act of 2010 (D.C. Act 18-398, May 10, 2010, 57 DCR 4362).

**Legislative history of Law 18-195.** — For Law 18-195, see notes following § 8-1773.01.



## CHAPTER 17O. WIND ENERGY.

Sec.

8-1775.01. Renewable energy study.

## § 8-1775.01. Renewable energy study.

Within one year after October 22, 2008, the Mayor shall commission a study to determine the economic, legal, and technical viability of the District government pursuing a new large-scale wind energy project through public financing or private financing.

(Oct. 22, 2008, D.C. Law 17-250, § 601, 55 DCR 9225.)

**Emergency legislation.** — For temporary (90 day) addition, see § 601 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

**Legislative history of Law 17-250.** — Law 17-250, the “Clean and Affordable energy Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-492 which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on

first and second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-497 and transmitted to both Houses of Congress for its review. D.C. Law 17-250 became effective on October 22, 2008.

**Editor’s notes.** — Section 602 of D.C. Law 17-250 provided: “This title shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

CHAPTER 17P. SMART LIGHTING.

Sec.  
8-1776.01. Definitions.

Sec.  
8-1776.02. Smart lighting study.

§ 8-1776.01. Definitions.

For the purposes of this chapter, the term “DDOE” means the District Department of the Environment.

(Mar. 3, 2010, D.C. Law 18-111, § 1041, 57 DCR 181.)

**Emergency legislation.** — For temporary (90 day) addition, see § 1041 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 1041 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — Law 18-111, the “Fiscal Year 2010 Budget Support Act of 2009”, was introduced in Council and

assigned Bill No. 18-203, which was referred to the Committee on the Whole. The bill was adopted on first and second readings on May 12, 2009, and September 22, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-255 and transmitted to both Houses of Congress for its review. D.C. Law 18-111 became effective on March 3, 2010.

**Short title.** — Short title: Section 1040 of D.C. Law 18-111 provided that subtitle E of title I of the act may be cited as the “Smart Lighting Study Act of 2009”.

§ 8-1776.02. Smart lighting study.

(a) Within 270 days after March 3, 2010, DDOE shall submit a report to the Council recommending strategies and standards for optimal lighting methods and levels in the District. The report shall address:

- (1) Public safety;
- (2) Energy efficiency;
- (3) Cost efficiency;
- (4) Effects on environmental health; and
- (5) Aesthetics.

(b) In producing the report required by subsection (a) of this section, DDOE shall:

(1) Consult with civil servants who have technical expertise and work for the Office of Planning, the Department of General Services, the Department of Housing and Community Development, the District Department of Transportation, the Metropolitan Police Department, the Fire and Emergency Medical Services Department, and appropriate federal authorities, including the General Services Administration, the Architect of the Capitol, and the National Capital Planning Commission;

(2) Solicit input from the public; and

(3) Evaluate recognized lighting standards, including standards promulgated by the Illuminating Engineering Society and the International Dark Sky Association.

(Mar. 3, 2010, D.C. Law 18-111, § 1042, 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 63, 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted “Department of General Services” for “Office of Property Management” in (b)(1).

**Emergency legislation.** — For temporary (90 day) addition, see § 1042 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 1042 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 8-1776.01

**Legislative history of Law 19-171.** — See note to § 8-1773.01.



CHAPTER 17Q. GOVERNMENT ENERGY REDUCTION.

Sec.

8-1777.01. Energy reduction.

§ 8-1777.01. Energy reduction.

(a) The Mayor shall develop a plan that results in a 15% reduction in energy use by each District agency and instrumentality.

(b) The plan shall:

(1) Include specific recommendations on implementation, including the resources and the time period required to implement the plan;

(2) Be submitted to the Council on or before December 31, 2009; and

(3) Consider all sources of energy.

(Mar. 3, 2010, D.C. Law 18-111, § 1111, 57 DCR 181.)

**Emergency legislation.** — For temporary (90 day) addition, see § 1111 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 1111 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — Law 18-111, the “Fiscal Year 2010 Budget Support Act of 2009”, was introduced in Council and

assigned Bill No. 18-203, which was referred to the Committee on the Whole. The bill was adopted on first and second readings on May 12, 2009, and September 22, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-255 and transmitted to both Houses of Congress for its review. D.C. Law 18-111 became effective on March 3, 2010.

**Short title.** — Short title: Section 1110 of D.C. Law 18-111 provided that subtitle L of title I of the act may be cited as the “Energy Reduction Planning Act of 2009”.

## CHAPTER 17R. ENERGY EFFICIENCY FINANCING.

*Subchapter I. Definitions and Purpose*

Sec.

8-1778.31. Bond issuance to private lending institutions.

Sec.

8-1778.01. Definitions.

8-1778.02. Declaration of public purpose.

*Subchapter II. Bond Financing*

8-1778.21. Establishment of the Special Energy Assessment Fund.

8-1778.22. Bond authorization.

8-1778.23. Payment and security.

8-1778.24. Bond details.

8-1778.25. Sale of the bonds.

8-1778.26. Financing and Closing Documents.

8-1778.27. Limited liability.

8-1778.28. District officials.

8-1778.29. Information reporting.

8-1778.30. Clarification regarding the debt cap.

*Subchapter III. Establishment of the National Capital Energy Fund and Energy Efficiency Loan Program*

8-1778.41. Establishment of the National Capital Energy Fund.

8-1778.42. Qualification for loans.

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*Subchapter I. Definitions and Purpose.***§ 8-1778.01. Definitions.**

For the purposes of this chapter, the term:

(1) "Administrator" means the person retained pursuant to the authority granted in § 8-1778.45 to administer the Energy Efficiency Loan program authorized by subchapter III of this chapter.

(2) "Authorized Delegate" means:

(A) The City Administrator;

(B) The Chief Financial Officer;

(C) The District of Columbia Treasurer;

(D) The Deputy Mayor for Planning and Economic Development;

(E) Any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated any of the Mayor's functions under this chapter pursuant to § 1-204.22(6) and who has been designated as an Authorized Delegate for purposes of this chapter; or

(F) An officer or employee of the office of the Chief Financial Officer to whom the Chief Financial Officer has delegated a function of the Chief Financial Officer under this chapter pursuant to § 1-204.24d, and who has been designated as an Authorized Delegate for purposes of this chapter.

(3) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(4) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this chapter.

(5) "Certification Standard" means a certification or accreditation standard for building energy retrofit installation, such as those provided by the Building Performance Institute, the Residential Energy Services Network, or a nationally recognized program approved by the United States Department of Energy or the Mayor.

(6) "Chief Financial Officer" means the Chief Financial Officer of the District of Columbia.

(7) "Closing Documents" means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the bonds, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(8) "Debt Service" means payment of principal, premium, if any, and interest on the bonds.

(9) "Energy Efficiency Audit" means a formal evaluation by a certified contractor of the energy consumption of a residential, commercial, or other building for the purpose of identifying methods of improving energy efficiency and reducing energy waste.

(10) "Energy Efficiency Improvement" means an installation or modification that is designed to reduce energy or water utility costs of residential, commercial, or other building types. The term "Energy Efficiency Improvement" includes:

(A) Insulation in walls, roofs, floors, and foundations and in heating and cooling distribution systems;

(B) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(C) Automatic energy control systems;

(D) Heating, ventilating, or air conditioning and distribution system modifications or replacement in buildings or central plants;

(E) Caulking or weather-stripping;

(F) Replacement or modifications of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a building unless the increase in illumination is necessary to conform to the applicable building code for the proposed lighting system;

(G) Energy recovery systems;

(H) Daylighting systems;

(I) Renewable energy systems; and

(J) Any other modification, installation, retrofit, or remodeling approved as an electric, gas, water, or stormwater utility cost-savings measure by the administrator.

(11) "Energy Efficiency Loan" means a loan to a property owner for the purpose of installing one of more Energy Efficiency Improvements.

(11A) "Energy Efficiency Loan Agreement" means a loan or other agreement to make, document, or implement an Energy Efficiency Loan entered into pursuant to § 8-1778.41(c).

(12) "Financing Documents" means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the bonds, including any required collection agreement, offering document, and any required supplements to any such documents.

(13) "Home Rule Act" means Chapter 2 of Title 1 [§ 1-201.01 et seq.].



(14) “Indenture” means the trust indentures, including a master trust indenture and any supplemental trust indenture, pursuant to which one or more series of the bonds are issued.

(14A) “Issuance Costs” means:

(A) Fees, costs, charges, or expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of an applicable series of bonds and the making of energy efficiency loans contemplated with the issuance, including program fees and administrative fees charged by the District;

(B) Underwriting, legal, accounting, rating agency, and other financing fees, costs, and expenses;

(C) Fees paid to financial institutions and insurance companies;

(D) Letter of credit fees;

(E) Compensation to financial advisors and other persons except full-time employees of the District and entities performing services on behalf of or as agents for the District; and

(F) Other fees, costs, charges, and expenses incurred in connection with the development and implementation of the financing documents, the closing documents, and other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of each applicable series of bonds and the making of energy efficiency loans.

(14B) “Private Lending Institution” means a non-government business organization that makes an Energy Efficiency Loan and is approved by the Mayor to participate in the Energy Efficiency Loan program pursuant to §§ 8-1778.31 and 8-1778.48.

(15) “Property owner” means an owner of real property in the District.

(16) “Qualified Apprenticeship Program” means an apprenticeship program registered with the District of Columbia Apprenticeship Council.

(17) “Quality Assurance Program” means a program that establishes energy benchmarks, monitors and verifies the quality of Energy Efficiency Improvements, and measures actual energy savings.

(18) “Special Assessment” means the special assessment authorized by subchapter IX of Chapter 8 of Title 47 [§ 47-895.31 et seq.].

(19) “Trustee” means the trustee under the indenture.

(May 27, 2010, D.C. Law 18-183, § 101, 57 DCR 3406; Apr. 20, 2013, D.C. Law 19-262, § 102(a), 60 DCR 1300.)

**Section references.** — This section is referenced in § 47-895.31.

**Effect of amendments.** — The 2013 amendment by D.C. Law 19-262 added (2)(F) and made related changes; substituted “energy or water utility” for “energy utility” in the introductory paragraph of (10); substituted “electric, gas, water, or stormwater” for “electric or gas” in (10)(J); and added (11A), (14A), and (14B).

**Temporary Addition of Section.** — Section 101 of D.C. Law 18-156 added a section to read as follows:

“Sec. 101. Definitions.

“For the purposes of this act, the term:

“(1) ‘Authorized Delegate’ means any one of the following:

“(A) The City Administrator;

“(B) The Chief Financial Officer;

“(C) The District of Columbia Treasurer;

“(D) The Deputy Mayor for Planning and Economic Development; or

“(E) Any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated any of the Mayor’s functions under this act pursuant to section 422(6) of the Home

Rule Act and who has been designated as an Authorized Delegate for purposes of this act.

“(2) ‘Bond Counsel’ means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

“(3) ‘Bonds’ means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this act

“(4) ‘Chief Financial Officer’ means the Chief Financial Officer of the District of Columbia.

“(5) ‘Closing Documents’ means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the bonds, and includes agreements, certificates letters, opinions, forms, receipts, and other similar instruments.

“(6) ‘Debt Service’ means payment of principal, premium, if any, and interest on the bonds.

“(7) ‘Financing Documents’ means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the bonds, including any required collection agreement, offering document, and any required supplements to any such documents.

“(8) ‘Home Rule Act’ means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 et seq.).

“(9) ‘Indenture’ means the trust indentures, including a master trust indenture and any supplemental trust indenture, pursuant to which one or more series of the bonds are issued.

“(10) ‘Special Assessment’ means the special assessment authorized by subchapter IX of Chapter 8 of Title 47 of the District of Columbia Official Code.

“(11) ‘Trustee’ means the trustee under the indenture.”

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 101 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR

**Legislative history of Law 18-183.** — Law 18-183, the “Energy Efficiency Financing Act of 2010”, was introduced in Council and assigned Bill No. 18-580, which was referred to the Committee on Finance and Revenue and the Committee on Government Operations and the Environment. The bill was adopted on first and second readings on March 2, 2010, and March 16, 2010, respectively. Signed by the Mayor on April 7, 2010, it was assigned Act No. 18-382 and transmitted to both Houses of Congress for its review. D.C. Law 18-183 became effective on May 27, 2010.

**Legislative history of Law 19-262.** — Law 19-262, the “Sustainable DC Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-756. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 16, 2013, it was assigned Act No. 19-615 and transmitted to Congress for its review. D.C. Law 19-262 became effective on Apr. 20, 2013.

## § 8-1778.02. Declaration of public purpose.

(a) Energy conservation efforts, including the promotion of Energy Efficiency Improvements to residential, commercial, and other real property, are necessary to address the issue of global climate change and to reduce the consumers’ energy costs.

(b) The upfront cost of making residential, commercial, or other real property more energy efficient prevents many property owners from making Energy Efficient Improvements. To make Energy Efficient Improvements more accessible and to promote the installation of those improvements, it is necessary to authorize a procedure to provide funds for the initial cost of installing Energy Efficiency Improvements.

(c) The Council declares that a public purpose will be served by a voluntary assessment program that provides the authority and the means to provide funds for the initial installation of Energy Efficiency Improvements that are permanently attached to residential, commercial, industrial, or other real property.

(d) Section 1-204.90 provides that the Council may, by act, authorize the issuance of District bonds to borrow money to finance, refinance, or reimburse,



and to assist in the financing, refinancing, or reimbursing of, the cost of capital projects or undertakings that will contribute to the health, welfare, or safety of residents of the District as determined by the Council.

(e) The Council finds that authorization, issuance, sale, and delivery of bonds for the payment of costs of a program to provide funds for the initial installation of Energy Efficiency Improvements that are permanently attached to residential, commercial, or other real property will contribute to the health, welfare, and safety of residents of the District, are in the public interest, and will accomplish the purposes and intent of § 1-204.90.

(May 27, 2010, D.C. Law 18-183, § 102, 57 DCR 3406.)

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

### *Subchapter II. Bond Financing.*

## **§ 8-1778.21. Establishment of the Special Energy Assessment Fund.**

(a)(1) There is established as a nonlapsing fund the Special Energy Assessment Fund. The Chief Financial Officer shall establish additional accounts in the Special Energy Assessment Fund, consisting of a Special Energy Assessment Bond Debt Service Account for each series of bonds issued pursuant to this chapter and a single Special Energy Assessment Program Administrative Account. The Chief Financial Officer shall pay, or direct the payment of, all receipts of the principal and interest portion of each Special Assessment into the Special Energy Assessment Bond Debt Service Account applicable to the series of bonds secured by the payment of that Special Assessment, and the Chief Financial Officer shall pay, or direct the payment of, the receipt of the administrative costs portion of each Special Assessment into the Special Energy Assessment Program Administrative Account. The Mayor shall pledge and create a security interest in the Special Assessment revenues and all other funds deposited in each Special Energy Assessment Bonds Debt Service Account to pay the Debt Service on the applicable series of bonds issued by the District pursuant to this chapter without further action by the Council as permitted by § 1-204.90(f). The Chief Financial Officer shall pay from the Special Energy Assessment Program Administrative Account the annual costs of administering the collection and maintenance of the Special Assessment and the annual costs of administering the Energy Efficiency Loan program authorized by subchapter III of this chapter. Except for any amounts specifically authorized by the Council, all Debt Service and administrative costs shall be paid only from receipts from the Special Assessments.

(2) Except as provided by subsection (c) of this section, all funds deposited into the Special Energy Assessment Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in this section without regard to fiscal year limitation.



(b) Receipt of the principal and interest portion of the Special Assessment and all amounts deposited in each Special Energy Assessment Bond Debt Service Account, plus all investments or earnings on those amounts, shall be irrevocably dedicated and pledged to the payment of the principal of, and interest on, the applicable bonds as provided in this chapter. Any escrow or other agreement entered into by the District providing for holding funds for the benefit of the holders of the bonds shall be maintained as long as any of the bonds are outstanding under the applicable Financing Documents. The administrative costs portion of the Special Assessment deposited in the Special Energy Assessment Program Administrative Account, plus all investments or earnings on those amounts, shall be used only for the payment of the costs of administering the Energy Efficiency Loan program authorized by subchapter III of this chapter.

(c) If, at the end of any fiscal year of the District following the issuance of bonds authorized by this chapter, the value of cash and investments in a Special Energy Assessment Bond Debt Service Account exceeds the amount of all payments authorized by this chapter and the Financing Documents applicable to that series of bonds, including required deposits into reserve funds, amounts to be set aside for additional series of bonds issued under this chapter, and any coverage requirements associated with the sale of the bonds, during the upcoming fiscal year, the excess shall be transferred to the General Fund of the District of Columbia, unless the District elects to use the excess to redeem that series of bonds prior to maturity. Amounts deposited in the Special Energy Assessment Program Administrative Account shall remain in, and shall be used for the purposes of, that account.

(d) The Mayor is authorized to:

- (1) Accept funds from grants from a public or private source;
- (2) Deposit grant funds in a special account in the Special Energy Assessment Fund; and
- (3) Use grant funds for a purpose for which monies in the Special Energy Assessment Fund may be spent.

(May 27, 2010, D.C. Law 18-183, § 201, 57 DCR 3406; Apr. 20, 2013, D.C. Law 19-262, § 102(b), 60 DCR 1300.)

**Section references.** — This section is referenced in § 8-1778.41 and § 47-895.31.

**Effect of amendments.** — The 2013 amendment by D.C. Law 19-262 deleted “subject to authorization by Congress” from the end of (a)(2); and added (d).

**Temporary Addition of Section.** — Section 102 of D.C. Law 18-156 added a section to read as follows:

“Sec. 102. Creation of the Special Energy Assessment Fund.

“(a)(1) There is established as a nonlapsing fund the Special Energy Assessment Fund. The Chief Financial Officer shall establish additional accounts in the Special Energy Assessment Fund, consisting of a Special Energy Assessment Bond Debt Service Account for

each series of bonds and a single Special Energy Assessment Program Administrative Account. The Chief Financial Officer shall pay, or direct the payment of, all receipts of the principal and interest portion of each Special Assessment into the Special Energy Assessment Bond Debt Service Account applicable to the series of bonds secured by the payment of that Special Assessment, and the Chief Financial Officer shall pay, or direct the payment of, the receipt of the administrative costs portion of each Special Assessment into the Special Energy Assessment Program Administrative Account. The Mayor shall pledge and create a security interest in the Special Assessment revenues and all other funds deposited in each Special Energy Assessment Bonds Debt Service

Account to pay the Debt Service on the applicable series of bonds without further action by the Council as permitted by section 490(f) of the Home Rule Act. The Chief Financial Officer shall pay from the Special Energy Assessment Program Administrative Account the annual costs of administering the collection and maintenance of the Special Assessment and the annual costs of administering the energy efficiency loan program authorized by Title II. Except for the Special Assessment revenues and any other amounts specifically authorized by the Council, all Debt Service and administrative costs shall be paid only from receipts from the Special Assessments and no other District funds shall be deposited in any fund or account created by this act or used for the purposes of such fund or account.

“(2) Except as provided by subsection (c) of this section, all funds deposited into the Special Energy Assessment Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in this section without regard to fiscal year limitation, subject to authorization by Congress.

“(b) Receipt of the principal and interest portion of the Special Assessment and all amounts deposited in each Special Energy Assessment Bond Debt Service Account, plus all investments or earnings on those amounts, shall be irrevocably dedicated and pledged to the payment of the principal of, and interest on, the applicable bonds as provided in this act. Any escrow or other agreement entered into by the District providing for holding funds for the

benefit of the holders of the bonds shall be maintained as long as any of the bonds are outstanding under the applicable Financing Documents. The administrative costs portion of the Special Assessment deposited in the Special Energy Assessment Program Administrative Account, plus all investments or earnings or those amounts, shall be used only for the payment of the costs of administering the program authorized by Title II.

“(c) If, at the end of any fiscal year of the District following the issuance of bonds, the value of cash and investments in a Special Energy Assessment Bond Debt Service Account exceeds the amount of all payments authorized by this act and the Financing Documents applicable to that series of bonds, including required deposits into reserve funds, amounts to be set aside for additional series of bonds, and any coverage requirements associated with the sale of the bonds, during the upcoming fiscal year, the excess shall be transferred to the General Fund of the District of Columbia, unless the District elects to use the excess to redeem that series of bonds prior to maturity. Amounts deposited in the Special Energy Assessment Program Administrative Account shall remain in, and shall be used for the purposes of, that account.”

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see §§ 102, 201 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

**Legislative history of Law 19-262.** — See note to § 8-1778.01.

## § 8-1778.22. Bond authorization.

(a) The Council approves and authorizes the issuance of one or more series of bonds in an aggregate principal amount not to exceed \$250 million. The bonds, which may be issued at any time and from time to time, in one or more series, shall be tax-exempt or taxable as the Mayor shall determine and shall be payable and secured as provided in § 8-1778.23.

(b) The Mayor is authorized to pay from the proceeds of a bond's issuance costs, the cost of funding capitalized interest and required reserves, and other costs authorized by § 1-204.90(f). In the event bonds are sold other than through a public offering, the issuance costs may be paid from the Special Energy Assessment Program Administrative Account.

(c) The remaining proceeds of the bonds shall be paid into the National Capital Energy Fund established by § 8-1778.41 and used to provide funds for the initial installation of Energy Efficiency Improvements that are permanently attached to residential, commercial, industrial, or other real property as authorized under subchapter III of this chapter.



(May 27, 2010, D.C. Law 18-183, § 202, 57 DCR 3406; Apr. 20, 2013, D.C. Law 19-262, § 102(c), 60 DCR 1300.)

**Effect of amendments.** — The 2013 amendment by D.C. Law 19-262 rewrote (b).

**Temporary Addition of Section.** — Section 103 of D.C. Law 18-156 added a section to read as follows: “Sec. 103. Bond authorization.

“(a) The Council approves and authorizes the issuance of one or more series of bonds in an aggregate principal amount not to exceed \$250 million. The bonds, which may be issued at any time and from time to time, in one or more series, shall be tax-exempt or taxable as the Mayor shall determine and shall be payable and secured as provided in section 104.

“(b) The Mayor is authorized to pay from the proceeds of the bonds the financing costs and expenses of issuing and delivering the bonds, including, but not limited to, underwriting, legal, accounting, and financial advisory fees; bond insurance or other credit enhancement; expenses for marketing and selling the bonds; printing costs and expenses; and the costs of

funding capitalized interest and required reserves.

“(c) The remaining proceeds of the bonds shall be paid into the National Capital Energy Fund created by section 202 and used to provide funds for the initial installation of energy efficiency and renewable energy improvements that are permanently attached to residential, commercial, industrial, or other real property as authorized under Title II.”

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 103 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

**Legislative history of Law 19-262.** — See note to § 8-1778.01.

## § 8-1778.23. Payment and security.

(a) Except as may be otherwise provided in this chapter, Debt Service on each series of bonds shall be payable solely and only from proceeds received from the sale of that series of bonds, income realized from the temporary investment of those proceeds, Special Assessment revenues allocated to the applicable Special Energy Assessment Bond Debt Service Account, amounts received from prepayments of any loans made pursuant to this chapter, income realized from the temporary investment of those Special Assessment revenues prior to payment to the bond holders, and other moneys that, as provided in the Financing Documents, may be made available to the District for payment of the bonds from sources other than the District, all as provided for in the Financing Documents.

(b) Payment of the bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the bondholders of certain of its rights under the Financing Documents and Closing Documents to the trustee for the bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the bonds pursuant to the Financing Documents.

(May 27, 2010, D.C. Law 18-183, § 203, 57 DCR 3406.)

**Section references.** — This section is referenced in § 8-1778.22.

**Temporary Addition of Section.** — Section 104 of D.C. Law 18-156 added a section to read as follows: “Sec. 104. Payment and security.

“(a) Except as may be otherwise provided in

this act, Debt Service on each series of bonds shall be payable solely and only from proceeds received from the sale of that series of bonds, income realized from the temporary investment of those proceeds, Special Assessment revenues allocated to the applicable Special Energy Assessment Bond Debt Service Account, amounts



received from prepayments of any loans made pursuant to this act, income realized from the temporary investment of those Special Assessment revenues prior to payment to the bond holders, and other moneys that, as provided in the Financing Documents, may be made available to the District for payment of the bonds from sources other than the District, all as provided for in the Financing Documents.

“(b) Payment of the bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the bond holders of certain of its rights under the Financing Documents and Closing Documents to the trustee for the bonds pursuant to the Financing Documents.

“(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the bonds pursuant to the Financing Documents.”

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 104 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

## § 8-1778.24. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this chapter in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the bonds, including a determination that the bonds may be issued in certificated or book-entry form;

(2) The principal amount of the bonds to be issued and denominations of the bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the bonds and the maturity date or dates of the bonds;

(5) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds;

(8) The time and place of payment of the bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the bonds to ensure that the proceeds are properly applied and used to accomplish the purposes of the Home Rule Act and this chapter;

(10) Actions necessary to qualify the bonds under blue sky laws of any jurisdiction where the bonds are marketed; and

(11) The terms and types of credit enhancement under which the bonds may be secured.

(b) The bonds shall contain a legend, which shall provide that the bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District (other than the Special Assessment), do not constitute a debt of the

District, and do not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(c) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary's manual or facsimile signature.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds.

(e) The bonds of any series may be issued in accordance with the terms of an indenture to be entered into by the District and a trustee to be selected by the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to § 1-204.90(a)(4).

(f) The bonds may be issued at any time or from time to time in one or more issues and in one or more series.

(g) The bonds are declared to be issued for essential public and governmental purposes. The bonds, the interest thereon, the income therefrom, and all funds pledged or available to pay or secure the payment of the bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

(h) The District does pledge and covenant and agree with the holders of the bonds that, subject to the provisions of the Financing Documents, the District will not limit or alter the basis on which the revenues pledged to secure the bonds are collected or allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the bonds, and will not in any way impair the rights or remedies of the holders of the bonds, until the bonds, together with interest thereon, and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the bonds. This subsection constitutes a contract between the District and the holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict with this chapter, this chapter shall be controlling.

(i) Consistent with § 1-204.90(a)(4)(B) and notwithstanding Chapter 9 of Title 28:

(1) A pledge made and security interest created in respect of the bonds or pursuant to any related Financing Document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract, or otherwise against the District, whether or not such party has notice; and

(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.

(May 27, 2010, D.C. Law 18-183, § 204, 57 DCR 3406.)



**Temporary Addition of Section.** — Section 105 of D.C. Law 18-156 added a section to read as follows:

“Sec. 105. Bond details.

“(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this act in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the bonds of each series, including, but not limited to, determinations of:

“(1) The final form, content, designation, and terms of the bonds, including a determination that the bonds may be issued in certificated or book-entry form;

“(2) The principal amount of the bonds to be issued and denominations of the bonds;

“(3) The rate or rates of interest or the method for determining the rate or rates of interest on the bonds;

“(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the bonds, and the maturity date or dates of the bonds;

“(5) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

“(6) Provisions for the registration, transfer, and exchange of the bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

“(7) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds;

“(8) The time and place of payment of the bonds;

“(9) Procedures for monitoring the use of the proceeds received from the sale of the bonds to ensure that the proceeds are properly applied and used to accomplish the purposes of the Home Rule Act and this act;

“(10) Actions necessary to qualify the bonds under blue sky laws of any jurisdiction where the bonds are marketed; and

“(11) The terms and types of credit enhancement under which the bonds may be secured.

“(b) The bonds shall contain a legend, which shall provide that the bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District (other than the Special Assessment), do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

“(c) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary's manual or facsimile signature.

“(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds.

“(e) The bonds of any series may be issued in accordance with the terms of an indenture to be entered into by the District and a trustee to be selected by the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.

“(f) The bonds may be issued at any time or from time to time in one or more issues and in one or more series.

“(g) The bonds are declared to be issued for essential public and governmental purposes. The bonds, the interest thereon, and the income therefrom, and all funds pledged or available to pay or secure the payment of the bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

“(h) The District does pledge and covenant and agree with the holders of the bonds that, subject to the provisions of the Financing Documents, the District will not limit or alter the basis on which the revenues pledged to secure the bonds are collected or allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the bonds, and will not in any way impair the rights or remedies of the holders of the bonds, until the bonds, together with interest thereon, and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the bonds. This subsection constitutes a contract between the District and the holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict with this act, this act shall be controlling.

“(i) Consistent with section 490(a)(4)(B) of the Home Rule Act and notwithstanding Chapter 9 of Title 28 of the District of Columbia Official Code:

“(1) A pledge made and security interest created in respect of the bonds or pursuant to any related Financing Document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

“(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract or otherwise against the District, whether or not such party has notice; and

“(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.”



Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 105 of Energy Effi-

ciency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

## § 8-1778.25. Sale of the bonds.

(a) The bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interests of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the sale of the bonds.

(c) The Mayor is authorized to deliver the executed and sealed bonds, on behalf of the District, for authentication, and, after the bonds have been authenticated, to deliver the bonds to the original purchasers of the bonds upon payment of the purchase price.

(d) The bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the bonds of such series and, if the interest on the bonds is expected to be exempt from federal income taxation, the treatment of the interest on the bonds for the purposes of federal income taxation.

(e) Chapter 3A of Title 2 [§ 2-351.01 et seq.], and subchapter III-A of Chapter 3 of Title 47 [§ 47-351.01 et seq.] shall not apply to a contract that the Mayor may from time to time enter into or the Mayor may determine to be necessary or appropriate, for purposes of this subchapter.

(May 27, 2010, D.C. Law 18-183, § 205, 57 DCR 3406; Sept. 26, 2012, D.C. Law 19-171, § 224(a), 59 DCR 6190; Apr. 20, 2013, D.C. Law 19-262, § 102(d), 60 DCR 1300.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted “Chapter 3A of Title 2” for “§ 2-301.01 et seq.” in (e).

The 2013 amendment by D.C. Law 19-262 rewrote (e).

**Temporary Addition of Section.** — Section 106 of D.C. Law 18-156 added a section to read as follows:

“Sec. 106. Sale of the bonds.

“(a) The bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interests of the District.

“(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the bonds, offering documents on behalf of the District, may deem final any such offering doc-

ument on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the sale of the bonds.

“(c) The Mayor is authorized to deliver the executed and sealed bonds, on behalf of the District, for authentication, and, after the bonds have been authenticated, to deliver the bonds to the original purchasers of the bonds upon payment of the purchase price.

“(d) The bonds shall not be issued until the Mayor receives an approving opinion from bond counsel as to the validity of the bonds of such series and, if the interest on the bonds is expected to be exempt from federal income taxation, the treatment of the interest on the bonds for purposes of federal income taxation.

“(e) Subchapter III-A of Chapter 3 of Title 47

of the District of Columbia Official Code shall not apply to any contract the Mayor may from time to time enter into, or the Mayor may determine to be necessary or appropriate, for purposes of this act. The District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 et seq.), shall not apply to contracts the Mayor may from time to time enter into, or the Mayor may determine to be necessary or appropriate, for purposes of this act until 3 years after the effective date of this act."

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 106 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

**Legislative history of Law 19-171.** — See note to § 8-1773.01.

**Legislative history of Law 19-262.** — See note to § 8-1778.01.

## § 8-1778.26. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds, the other Financing Documents, and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

(May 27, 2010, D.C. Law 18-183, § 206, 57 DCR 3406.)

**Temporary Addition of Section.** — Section 107 of D.C. Law 18-156 added a section to read as follows:

"Sec. 107. Financing and closing documents.

"(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds.

"(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

"(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed,

or otherwise reproduced on the bonds, the other Financing Documents, and the Closing Documents to which the District is a party.

"(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

"(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the bonds, and to ensure the due performance of the obligations of the



District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.”

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 107 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

## § 8-1778.27. Limited liability.

(a) The bonds shall be special obligations of the District payable solely and only from the amounts deposited in the respective Special Energy Assessment Bond Debt Service Accounts and Bond Proceeds Account of the National Capital Energy Fund established by § 8-1778.41. The bonds shall be without recourse to the District. The bonds shall not be general obligations of the District, shall not be a pledge of, or involve, the faith and credit or the taxing power of the District (other than the Special Assessment), shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(b) The bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the bonds.

(c) No person, including, but not limited to, any bond holder, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this chapter, the bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

(May 27, 2010, D.C. Law 18-183, § 207, 57 DCR 3406.)

**Section references.** — This section is referenced in § 8-1778.28.

**Temporary Addition of Section.** — Section 108 of D.C. Law 18-156 added a section to read as follows:

“Sec. 108. Limited liability.

“(a) The bonds shall be special obligations of the District payable solely and only from the amounts deposited in the respective Special Energy Assessment Bond Debt Service Accounts and Bond Proceeds Account of the National Capital Energy Fund created by section 202. The bonds shall be without recourse to the District. The bonds shall not be general obligations of the District, shall not be a pledge of, or involve, the faith and credit or the taxing power of the District (other than the Special Assessment), shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

“(b) The bonds shall not give rise to any pecuniary liability of the District and the Dis-

trict shall have no obligation with respect to the purchase of the bonds.

“(c) No person, including, but not limited to any bond holder, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this act, the bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.”

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 108 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).



**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

## § 8-1778.28. District officials.

(a) Except as otherwise provided in § 8-1778.27(c), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds or be subject to any personal liability by reason of the issuance of the bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this chapter, the bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing Documents.

(May 27, 2010, D.C. Law 18-183, § 208, 57 DCR 3406.)

**Temporary Addition of Section.** — Section 109 of D.C. Law 18-156 added a section to read as follows:

“Sec. 109. District officials.

“(a) Except as otherwise provided in section 108(c), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds or be subject to any personal liability by reason of the issuance of the bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this act, the bonds, the Financing Documents, or the Closing Documents.

“(b) The signature, countersignature, facsimile signature, or facsimile countersignature of

any official appearing on the bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing Documents.”

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 109 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

## § 8-1778.29. Information reporting.

Within 3 days after the Mayor’s receipt of the transcript of proceedings relating to the issuance of the bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

(May 27, 2010, D.C. Law 18-183, § 209, 57 DCR 3406.)

**Temporary Addition of Section.** — Section 110 of D.C. Law 18-156 added a section to read as follows: “Sec. 110. Information reporting. Within 3 days after the Mayor’s receipt of the transcript of proceedings relating to the issuance of the bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.”

Section 402(b) of D.C. Law 18-156 provided

that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 110 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

**§ 8-1778.30. Clarification regarding the debt cap.**

For purposes of calculating the District's level of debt, the Special Assessments do not constitute revenues derived from taxes, fees, or other general revenues of the District, or its agencies or authorities, pursuant to the District's power to tax or impose fees within the definition of District Bonds in § 47-334(2).

(May 27, 2010, D.C. Law 18-183, § 210, 57 DCR 3406.)

**Temporary Addition of Section.** — Section 111 of D.C. Law 18-156 added a section to read as follows:

"Sec. 111. Clarification regarding the debt cap. The voluntary Special Assessments do not constitute revenues derived from taxes, fees, or other general revenues of the District, or its agencies or authorities, pursuant to the District's power to tax or impose fees within the definition of District Bonds in D.C. Official Code § 47-334(2)."

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 111 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

**§ 8-1778.31. Bond issuance to private lending institutions.**

If the Mayor determines that a bond issuance is in the interest of the District and promotes the goal of encouraging the installation of Energy Efficiency Improvements, a bond may be issued to, purchased by, or held by a Private Lending Institution that makes an Energy Efficiency Loan to a property owner. In this event, the proceeds of the bond may be paid directly to the property owner or the contractor installing the Energy Efficiency Improvements and not paid into the National Capital Energy Fund. The amount of the Energy Efficiency Loan shall be determined as provided in subchapter III of this chapter, and the Private Lending Institution shall be an additional party to the Energy Efficiency Loan Agreement. A bond held by a Private Lending Institution may be redeemed or transferred to another holder at the discretion of the Private Lending Institution.

(May 27, 2010, D.C. Law 18-183, § 211, as added Apr. 20, 2013, D.C. Law 19-262, § 102(e), 60 DCR 1300.)

**Effect of amendments.** — D.C. Law 19-262 added this section.

**Legislative history of Law 19-262.** — See note to § 8-1778.01.

*Subchapter III. Establishment of the National Capital Energy Fund and Energy Efficiency Loan Program.*

**§ 8-1778.41. Establishment of the National Capital Energy Fund.**

(a) There is established as a nonlapsing fund the National Capital Energy Fund. The Chief Financial Officer shall deposit the proceeds from the sale of a

bond into the National Capital Energy Fund, except as provided in § 8-1778.31.

(b) All funds deposited into the National Capital Energy Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section, without regard to fiscal year limitation.

(c) The Mayor may use the funds in the National Capital Energy Fund to make Energy Efficiency Loans to property owners for the initial costs of the installation of Energy Efficiency Improvements. Each Energy Efficiency Loan shall be repaid by the revenues generated by the Special Assessment. Each Energy Efficiency Loan shall be evidenced by a loan, or other, agreement that obligates the property owner and all successor property owners to pay the Special Assessment and such other terms and conditions as the Mayor shall determine to be necessary or appropriate to carry out the provisions of this chapter.

(d) An Energy Efficiency Loan shall bear interest at the rate of interest on the series of bonds issued immediately preceding or simultaneously with the date of execution of the Energy Efficiency Loan, plus an amount determined by the Mayor to be sufficient to pay all administrative costs specified in § 8-1778.21. Notwithstanding the preceding sentence, when a bond is issued pursuant to § 8-1778.31, the interest rate on the Energy Efficiency Loan shall be the same as the interest rate on a bond issued to a Private Lending Institution. The principal, interest, and administrative costs of an Energy Efficiency Loan shall be separately stated to permit the allocation thereof as provided in this chapter.

(e) If a first source of funds deposited in the National Capital Energy Fund is an obligation that requires the District to use those funds solely to repay principal and interest on the funds, the Energy Efficiency Loan, or other agreement shall be structured to repay the funding source, plus administrative costs. A Special Assessment payment shall be deposited in the same manner specified in § 8-1778.21.

(f) A Special Assessment payment received prior to the issue of bonds secured by the Special Assessment payments may be used to provide a debt service reserve fund for the bonds.

(g) The Mayor is authorized to:

- (1) Accept grant funds from a public or private source;
- (2) Deposit grant funds into a special account in the National Capital Energy Fund; and
- (3) Use grant funds for a purpose for which monies in the National Capital Energy Fund may be spent.

(May 27, 2010, D.C. Law 18-183, § 301, 57 DCR 3406; Apr. 20, 2013, D.C. Law 19-262, § 102(f), 60 DCR 1300.)



**Section references.** — This section is referenced in § 8-1778.22, § 8-1778.27, and § 47-895.32.

**Effect of amendments.** — The 2013 amendment by D.C. Law 19-262 rewrote (a); substituted “subsection (c) of this section, without regard to fiscal year limitation” for “this section without regard to fiscal year limitation, subject to authorization by Congress” near the end of (b); rewrote (d) and (e); and added (g).

**Temporary Addition of Section.** — Sections 201 and 202 of D.C. Law 18-156 added sections to read as follows:

“Sec. 201. Definitions. For the purposes of this act, the term:

“(1) ‘Administrator’ means the person retained pursuant to the authority granted in section 205 to administer the energy efficiency loan program authorized by this title.

“(2) ‘Certification Standard’ means a certification or accreditation standard for building energy retrofit installation, such as those provided by the Building Performance Institution, RESNET, or other nationally-recognized program approved by U.S. Department of Energy or the Mayor.

“(3) ‘Energy efficiency audit’ means a formal evaluation by a certified contractor of the energy consumption of a residential, commercial, or other building for the purpose of identifying methods of improving energy efficiency and reducing energy waste.

“(4) ‘Energy efficiency improvement’ means an installation or modification that is designed to reduce energy consumption and result in savings, including energy and operational savings, in residential or commercial buildings and includes the following:

“(A) Insulation in walls, roofs, floors, and foundations and in heating and cooling distribution systems;

“(B) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

“(C) Automatic energy control systems;

“(D) Heating, ventilating, or air conditioning and distribution system modifications or replacement in buildings or central plants;

“(E) Caulking or weather-stripping;

“(F) Replacement or modifications of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a residential or commercial building unless the increase in illumination is necessary to conform to the applicable building code for the proposed lighting system;

“(G) Energy recovery systems;

“(H) Daylighting systems;

“(I) Renewable energy improvements; and

“(J) Any other modification, installation, retrofit, or remodeling approved as a energy cost-savings measure by the administrator.

“(5) ‘Energy efficiency loan’ means a loan to a property owner for the purpose of installing one of more energy efficiency improvements.

“(6) ‘PACE bonds’ means the property-assessed clean energy bonds issued pursuant to the authority granted in Title I.

“(7) ‘Property owner’ means an owner of real property in the District.

“(8) ‘Qualified Apprenticeship Program’ means an apprenticeship program registered with the District of Columbia Apprenticeship Council.

“(9) ‘Quality Assurance Program’ means a program that establishes the energy benchmarks, monitors and verifies the quality of the energy retrofits and renewable energy installations, and measures actual energy savings for the National Capital Energy Fund.

“Sec. 202. Creation of the National Capital Energy Fund.

“(a) There is established as a nonlapsing fund the National Capital Energy Fund. The Chief Financial Officer shall create 2 accounts within the National Capital Energy Fund: the Bond Proceeds Account and the Federal Grant Account. The Chief Financial Officer shall deposit the proceeds from each sale of the PACE bonds into the Bond Proceeds Account and shall deposit all Energy Efficiency Conservation Block Grant Retrofit Ramp-Up funds received from the United States government as Energy Efficiency and Conservation Block Grants into the Federal Grant Account.

“(b) All funds deposited into the National Capital Energy Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in this section without regard to fiscal year limitation, subject to authorization by Congress.

“(c) The Mayor may use the funds in the National Capital Energy Fund to make energy efficiency loans to property owners for the initial costs of the installation of energy efficiency improvements. Each energy efficiency loan shall be repaid by the revenues generated by the Special Assessment. Each energy efficiency loan shall be evidenced by a loan, or other, agreement that obligated the property owner and all successor property owners to pay the Special Assessment and includes such other terms and conditions as the Mayor shall determine to be necessary or appropriate to carry out the provisions of this act.

“(d) Prior to the 1st issuance of PACE bonds, each energy efficiency loan funded from grant proceeds shall bear interest at a rate equal to

the interest rate on 10-year United States Treasury Notes on the date of the execution of the loan or other agreement evidencing an energy efficiency loan of the 1st series of energy efficiency loans to be issued, plus 250 basis points. Upon the 1st issuance of PACE bonds, the interest rate on the outstanding energy efficiency loans used to secure payment of that issue of PACE bonds shall convert automatically, and without action by either the District or the property owner, to the interest rate on the 1st series of PACE bonds, plus an amount determined by the Mayor to be sufficient to pay all administrative costs specified in section 102. Thereafter, until the interest rate is converted as described in the prior sentence, all energy efficiency loans shall bear interest at the rate of interest on the series of PACE bonds issued immediately preceding the date of execution of the energy efficiency loan, plus an amount determined by the Mayor to be sufficient to pay all administrative costs specified in section 102. In all cases, the principal, interest, and administrative costs shall be separately stated to permit the allocation thereof as provided in this act.

“(e) If the 1st source of funds deposited in the National Capital Energy Fund is not a grant but an obligation which requires the District to repay principal and interest thereon, the energy efficiency loan, or other, agreement shall be structured to repay such funding source plus administrative costs. Special Assessment payments shall be deposited in the same manner specified in section 8-1778.21.

“(f) A Special Assessment payment received prior to the issue of bonds secured by the Special Assessment payments may be used to provide a debt service reserve fund for the bonds.”

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) additions, see § 201, 202 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

## § 8-1778.42. Qualification for loans.

(a) To qualify for a loan from the National Capital Energy Fund, the property owner shall file with the administrator a loan application including the following:

- (1) The amount of loan requested;
- (2) The agreement of the property owner to pay the full amount of the Special Assessment;
- (3) A description of the Energy Efficiency Improvements that the property owner proposes to install and an estimate of the cost of the installation;
- (4) An Energy Efficiency Audit from an auditor approved by the Administrator stating the amount of energy and water used by the subject property and the amount of the energy, water, and stormwater to be saved by the property owner through the installation of the Energy Efficiency Improvements, shall include in its calculation of savings reasonable estimates of:

(A) Energy and water price inflation likely in the future utility costs of the property; and

(B) Additional energy savings expected from the property owner's selection of Energy Efficiency Improvements when replacing equipment using energy or water.

(5) A statement establishing that the value of the savings from the installation of the Energy Efficiency Improvement is reasonably expected to equal or exceed the amount of the principal of, and interest on, the Energy Efficiency Loan and, if the property owner requests financing under § 8-1778.43(b), the cost of the Energy Efficiency Audit;

(6) Credit information and information regarding the subject property as determined by the administrator;



(7) Property owner certification that the Special Assessment will not violate any agreements with any other lender or provision of applicable lender consents; and

(8) Other information or documentation as the Administrator may deem necessary to evaluate a loan application.

(b) The property owner shall pay a fee at the time of filing the application in an amount to be determined by the administrator to be sufficient to cover the cost of processing the application and making the Energy Efficiency Loan.

(May 27, 2010, D.C. Law 18-183, § 302, 57 DCR 3406; Apr. 20, 2013, D.C. Law 19-262, § 102(g), 60 DCR 1300.)

**Effect of amendments.** — The 2013 amendment by D.C. Law 19-262 rewrote (a)(4); substituted “savings from” for “energy saved by” in (a)(5); and added (a)(8) and made related changes.

**Temporary Addition of Section.** — Section 203 of D.C. Law 18-156 added a section to read as follows:

“Sec. 203. Qualification for loans.

“(a) To qualify for a loan from the National Capital Energy Fund, the property owner shall file with the administrator a loan application containing the following:

“(1) The amount of loan requested;

“(2) The agreement of the property owner to pay the full amount of the Special Assessment;

“(3) A description of the energy efficiency improvement that the property owner proposes to install and an estimate of the cost of the installation;

“(4) An energy efficiency audit from an auditor approved by the administrator stating the amount of energy used by the subject property and the amount of the energy to be saved by the installation of the energy efficiency improvement;

“(5) A statement establishing that the value

of the energy saved by the installation of the energy efficiency improvement exceeds the amount of the principal of, and interest on, the energy efficiency loan;

“(6) Credit information and information regarding the subject property as determined by the administrator; and

“(7) Property owner certification that the Special Assessment will not violate any agreements with any other lender or provision of applicable lender consents.

“(b) The property owner shall pay a fee at the time of filing the application in an amount to be determined by the administrator to be sufficient to cover the cost of processing the application and making the energy efficiency loan.”

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 203 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

**Legislative history of Law 19-262.** — See note to § 8-1778.01.

## § 8-1778.43. Approval of application.

(a) The administrator shall review the property owner’s application and, if it finds that the application satisfies all requirements, shall enter into a loan, or other, agreement with the property owner.

(b) The property owner may request in the loan application that the Energy Efficiency Loan include an amount equal to all or part of the cost of the Energy Efficiency Audit. If the amount requested is reasonable, the administrator shall include the amount in the Energy Efficiency Loan.

(c) Before entering into an Energy Efficiency Loan Agreement with a property owner, the administrator shall verify, based upon information provided in the property owner’s application, that the value of the savings from the installation of the Energy Efficiency Improvements is reasonably expected to exceed the amount of the principal of, and interest on, the Energy Efficiency



Loan, including any cost of the Energy Efficiency Audit included pursuant to subsection (b) of this section.

(May 27, 2010, D.C. Law 18-183, § 303, 57 DCR 3406; Apr. 20, 2013, D.C. Law 19-262, § 102(h), 60 DCR 1300.)

**Section references.** — This section is referenced in § 8-1778.42 and § 47-895.31.

**Effect of amendments.** — The 2013 amendment by D.C. Law 19-262 substituted “an Energy Efficiency Loan Agreement with a property owner, the administrator shall verify, based upon information provided in the property owner’s application, that the value of the savings from” for “a loan, or other, agreement with a property owner, the administrator shall verify, based upon information provided in the property owner’s application, that the value of the energy saved by” in (c).

**Temporary Addition of Section.** — Section 204 of D.C. Law 18-156 added a section to read as follows: “Sec. 204. Approval of applica-

tion. The administrator shall review the property owner’s application and, if it finds that the application satisfies all requirements, shall enter into a loan, or other, agreement with the property owner.

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 204 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

**Legislative history of Law 19-262.** — See note to § 8-1778.01.

## § 8-1778.44. Duties of administrator.

The administrator shall provide general management, oversight, and coordination of the Energy Efficiency Loan program and its related services, including performing the following duties:

- (1) Outreach and marketing to eligible property owners to inform them of the existence and benefits of the Energy Efficiency Loan program in conjunction with the brand name established pursuant to § 8-1774.06;
- (2) Establishing loan and credit standards and processes;
- (3) Underwriting and servicing all Energy Efficiency Loan applications;
- (4) Identifying market opportunities and funding leverage opportunities;
- (5) Collecting appropriate documents and recording the tax liens;
- (6) Sending sufficient information to the Office of Tax and Revenue to enable the Office of Tax and Revenue to collect the Special Assessments, including the allocations of Debt Service and administrative costs;
- (7) Evaluating, retaining, and overseeing firms to perform energy audits, (including maintaining a list of approved auditors for use by property owners), energy benchmarking, and energy savings verification;
- (8) Implementing the Quality Assurance Program;
- (9) Certifying and pre-qualifying all contractors authorized to provide Energy Efficiency Improvements or other work under this chapter;
- (10) Approving forms and quality standards to perform installation of Energy Efficiency Improvements;
- (11) Maintaining a list of pre-qualified contractors authorized to provide Energy Efficiency Improvements under this chapter; and
- (12) Reporting to the Mayor and the Council on the progress of the Energy Efficiency Loan program.

(May 27, 2010, D.C. Law 18-183, § 304, 57 DCR 3406.)

**Temporary Addition of Section.** — Section 205 of D.C. Law 18-156 added a section to read as follows:

“Sec. 205. Duties of administrator.

“The administrator shall provide general management, oversight, and coordination of the energy efficiency loan program and its related services, including performing the following duties:

“(1) Outreach and marketing to eligible property owners to inform them of the existence and benefits of the energy efficiency loan program in conjunction with the brand established pursuant to section 206 of the Clean and Affordable Energy Act of 2008, effective October 22, 2008 (D.C. Law 17-250; D.C. Official Code § 8-1774.06);

“(2) Establishing loan and credit standards and processes;

“(3) Underwriting and servicing all energy efficiency loan applications;

“(4) Identifying market opportunities and funding leverage opportunities;

“(5) Collecting appropriate documents and recording the tax liens;

“(6) Sending sufficient information to the Office of Tax and Revenue to enable the Office

of Tax and Revenue to collect the Special Assessments, including the allocations of Debt Service and administrative costs;

“(7) Evaluating, retaining, and overseeing firms to perform energy audits, (including providing a list of approved auditors for use by property owners), energy benchmarking, and energy savings verification;

“(8) Oversee the Quality Assurance Program and energy audits and verify the quality of the outcome;

“(9) Certify and pre-qualify all contractors performing work within the loan program and authorized to provide energy conservation and retrofit services financed under this act; and

“(10) Maintain a list of pre-qualified contractors authorized to provide energy conservation services under this act.”

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 205 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

## § 8-1778.45. Authority to retain administrator.

(a) The Mayor may contract with an administrator to administer the Energy Efficiency Loan program created by this subchapter.

(b) Chapter 3A of Title 2 [§ 2-351.01 et seq.] shall not apply to the contract authorized by subsection (a) of this section until 5 years after the effective date of the initial contract to retain an administrator.

(May 27, 2010, D.C. Law 18-183, § 305, 57 DCR 3406; Sept. 26, 2012, D.C. Law 19-171, § 224(b), 59 DCR 6190; Apr. 20, 2013, D.C. Law 19-262, § 102(i), 60 DCR 1300.)

**Section references.** — This section is referenced in § 8-1778.01.

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted “Chapter 3A of Title 2” for “§ 2-301.01 et seq.” in (b).

The 2013 amendment by D.C. Law 19-262 rewrote (b).

**Temporary Addition of Section.** — Section 206 of D.C. Law 18-156 added a section to read as follows:

“Sec. 206. Authority to retain administrator.

“(a) The Mayor may contract with an administrator to administer the energy efficiency loan program created by this title.

“(b) The District of Columbia Procurement Practices Act of 1985, effective February 21,

1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 et seq.), shall not apply to the contract authorized by subsection (a) of this section until 3 years after the effective date of this act.

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 206 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

**Legislative history of Law 19-171.** — See note to § 8-1773.01.

**Legislative history of Law 19-262.** — See note to § 8-1778.01.



## § 8-1778.46. Establishment of Quality Assurance Program.

The Mayor shall establish a Quality Assurance Program to promote transparency, assure the competence of contractors and individuals performing retrofits, analyze energy savings, and achieve the following goals:

(1) Establishment and publication of the Certification Standards required of contractors and subcontractors to be eligible to receive contracts or subcontracts under this chapter, which at a minimum shall require contractors to comply with:

(A) All applicable business licensing, insurance, tax, and bonding laws and regulations of the District; and

(B) All applicable federal and District wage and hour, employment, workplace health and safety, equal employment opportunity, and other standards of labor and employment law, including proper classification of workers;

(2) Providing private investors, lenders, and property owners with the certification and performance standards required of auditors, inspectors, contractors, subcontractors, maintenance companies, and other entities that provide construction, installation, repairs, and maintenance of Energy Efficiency Improvements as a result of an Energy Efficiency Loan;

(3) Conducting quality control inspections of services rendered by contractors and subcontractors; and

(4) Verifying and analyzing energy savings following the installation of Energy Efficiency Improvements.

(May 27, 2010, D.C. Law 18-183, § 306, 57 DCR 3406.)

**Temporary Addition of Section.** — Section 207 of D.C. Law 18-156 added a section to read as follows:

“Sec. 207. Establishment of a Quality Assurance Program.

“The Mayor shall establish a Quality Assurance Program to promote transparency, competence of contractors and employees performing retrofits, and analysis of the underlying energy savings, to achieve the following goals:

“(1) Establish and publish the Certification Standards required of contractors and subcontractors for such businesses to be eligible to receive a contract funded from the National Capital Energy Fund, which, at a minimum, shall require contractors to comply with:

“(A) All applicable business licensing, insurance, tax, and bonding laws and regulations of the District of Columbia; and

“(B) All applicable federal and District wage and hour, employment, workplace health and safety, and equal employment opportunity laws, and other standards of labor law, including proper classification of workers.

“(2) Provide private investors, lenders, and property owners with the Certification Standards and performance metrics required of auditors, inspectors, contractors, subcontractors, maintenance companies, and others who provide construction, repairs, and maintenance of energy retrofit services as a result of an energy efficiency loan;

“(3) Conduct quality control inspections of services rendered by contractors and subcontractors to ensure proper auditing, installation, and other standards; and

“(4) Verify and analyze the energy savings achieved post-retrofit.”

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 207 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

## § 8-1778.47. Workforce development and employment plan.

In an effort to maximize employment opportunities to District residents, the



Mayor shall establish a workforce development and employment plan that shall incorporate the first source hiring requirements of § 2-219.03, with priority given to employment of:

- (1) Residents of economically distressed neighborhoods;
- (2) Low-income individuals; and
- (3) Unemployed and underemployed residents.

(May 27, 2010, D.C. Law 18-183, § 307, 57 DCR 3406.)

**Temporary Addition of Section.** — Section 208 of D.C. Law 18-156 added a section to read as follows:

“Sec. 208. Workforce development and employment plan; Qualified Apprenticeship Programs.

“In an effort to maximize employment opportunities to District residents, the Mayor shall:

“(1) Establish a workforce development and employment plan, which shall incorporate the District’s first source agreement hiring requirement, with priority given to employment of:

“(A) Residents of economically distressed neighborhoods;

“(B) Low-income individuals; and

“(C) Unemployed and underemployed residents; and

“(2) Leverage Qualified Apprenticeship Programs to train individuals for advancement to living wage career path employment.”

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 208 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

## § 8-1778.48. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this chapter.

(May 27, 2010, D.C. Law 18-183, § 308, 57 DCR 3406.)

**Temporary Addition of Section.** — Section 209 of D.C. Law 18-156 added a section to read as follows: “Sec. 209. Rules. The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement the provisions of this act.”

Section 402(b) of D.C. Law 18-156 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 209 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

**Legislative history of Law 18-183.** — For Law 18-183, see notes following § 8-1778.01.

**Delegation of Authority.** — Delegation of Authority—Energy Efficiency Financing Act of 2010, see Mayor’s Order 2010-118, July 16, 2010 (57 DCR 6212).

## CHAPTER 17S. SUBMISSION OF STATE ENERGY PLANS.

Sec. 8-1779.01. Submission of state energy plans to Council prior to filing with federal agency.	Sec. 8-1779.02. Limitation of expenditures. 8-1779.03. Review period; time for filing state energy plans; approval.
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### § 8-1779.01. Submission of state energy plans to Council prior to filing with federal agency.

The Mayor shall submit, on an annual basis, all federally required state energy plans and modifications of approved state energy plans for the following energy programs to the Council of the District of Columbia ("Council") for its review and approval prior to submission to the federal agency administering the program:

(1) The supplementary weather assistance program for low-income persons authorized by 42 U.S.C. § 6851 et seq. [42 U.S.C. § 6861 et seq.];

(2) The state energy conservation programs authorized by 42 U.S.C. § 6201 et seq.;

(3) The energy conservation programs for schools, hospitals, and buildings owned by units of local governments and public care institutions authorized by 42 U.S.C. § 6371 et seq.;

(4) The energy outreach programs authorized by 42 U.S.C. § 7001 et seq. [repealed]; and

(5) The home energy assistance program for low-income persons authorized by 42 U.S.C. § 8621 et seq.

(Feb. 24, 1987, D.C. Law 6-173, § 2, 33 DCR 7224.)

**Section references.** — This section is referenced in § 8-1779.02.

**Prior Codifications.** — 2001 Ed., § 2-911.  
1981 Ed., § 1-1911.

**Legislative history of Law 6-173.** — Law 6-173, the "State Energy Plans Submission Requirement Act of 1986," was introduced in Council and assigned Bill No. 6-402, which was referred to the Committee on Public Service and Cable Television. The Bill was adopted on

first and second readings on September 23, 1986 and October 7, 1986, respectively. Signed by the Mayor on October 30, 1986, it was assigned Act No. 6-222 and transmitted to both Houses of Congress for its review.

**References in text.** — 42 U.S.C. § 7001 et seq., referred to in (4), was repealed by P.L. 102-486, Title I, Subtitle E, § 143(a), 106 Stat. 2843, effective October 24, 1992.

### § 8-1779.02. Limitation of expenditures.

The Mayor shall not expend, except in accordance with a state energy plan identified in § 8-1779.01, any revenues owed or accruing to the District of Columbia ("District") on or after January 27, 1986, as a result of action taken by the United States Department of Energy pursuant to the following authority:

(1) 12 U.S.C. § 1904, note, as incorporated by 15 U.S.C. § 754(a)(1) [expired];

(2) 15 U.S.C. § 757 et seq. [expired];

(3) 42 U.S.C. § 7101 et seq.; and

(4) Section 155 of a Joint Resolution Making further continuing appro-

priations and providing for productive employment for the fiscal year 1983, and for other purposes, effective December 21, 1982 (96 Stat. 1830) [Public Law 97-377, § 155, 96 Stat. 1919].

(Feb. 24, 1987, D.C. Law 6-173, § 3, 33 DCR 7224.)

**Prior Codifications.** — 2001 Ed., § 2-912.  
1981 Ed., § 1-1912.

**Legislative history of Law 6-173.** — For legislative history of D.C. Law 6-173, see Historical and Statutory Notes following § 2-911.

**References in text.** — 15 U.S.C. §§ 754 and 757, referred to in (1) and (2), respectively, have been omitted pursuant to the terms of former 15 U.S.C. § 760g.

### § 8-1779.03. Review period; time for filing state energy plans; approval.

Each state energy plan shall be submitted to the Council for a 60-day review period (excluding Saturdays, Sundays, holidays, and days of Council recess) at least 90 days before the plan is required to be submitted to the federal agency administering the program. Proposed modifications to an approved state plan shall be submitted to the Council for a 30-day review period (excluding Saturdays, Sundays, holidays, and days of Council recess) at least 45 days before the modification is required to be submitted to the federal agency administering the program. The Council may, by resolution, approve or disapprove any plan or modification, in whole or in part, within the review period. If the Council, by resolution, does not approve or disapprove any plan or modification before the expiration of the review period, the plan or modification shall be deemed approved.

(Feb. 24, 1987, D.C. Law 6-173, § 4, 33 DCR 7224.)

**Prior Codifications.** — 2001 Ed., § 2-913.  
1981 Ed., § 1-1913.

**Legislative history of Law 6-173.** — For

legislative history of D.C. Law 6-173, see Historical and Statutory Notes following § 2-911.



## SUBTITLE E. ANIMAL CONTROL AND PROTECTION.

## CHAPTER 18. ANIMAL CONTROL.

*Subchapter I. General*

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 8-1802. Animal Care and Control Agency.  
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## Sec.

- 8-1825.05. Colony density and distance from property line.  
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*Subchapter III. Release of Animals*

- 8-1831.01. Release of animals.

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- 8-1841.01. Definitions.  
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*Subchapter V. Classroom Animals*

- 8-1851.01. Animals kept in schools.  
 8-1851.02. Care of classroom animals.

*Subchapter VI. Animal Emergency Preparedness*

- 8-1861.01. Animal emergency preparedness plan.

*Subchapter I. General.***§ 8-1801. Definitions.**

For the purposes of this subchapter:

(1)(A) The term “animal at large” means any animal found off the premises of its owner and neither leashed nor otherwise under the immediate control of a person capable of physically restraining it.

(B) The term “at large” does not include a dog in a dog park that is under the verbal command of a responsible adult.

(2) The term “animal shelter” means a District of Columbia government facility used by the Animal Care and Control Agency for the care and detention of animals.

(3) The term “dangerous animal” means an animal that because of specific training or demonstrated behavior threatens the health or safety of the public. The term “dangerous animal” does not include a dangerous dog as defined in § 8-1901(1).

(3A) The term “District-owned parkland” means outdoor property within the possession and control of the government of the District of Columbia.

(3B) The term “dog park” means an officially established off-leash dog exercise area on District-owned or federal parkland.

(4) The term “Mayor” means the Mayor of the District of Columbia or his designee.

(5) The term “owner” means a person in the District of Columbia who purchases or keeps an animal in temporary or permanent custody except as provided in § 8-1804.

(6) The term “vaccinated” means protected by a documented inoculation that the Mayor, consistent with the practices of veterinary medicine, determines is currently effective.

(Oct. 18, 1979, D.C. Law 3-30, § 2, 26 DCR 765; Oct. 18, 1988, D.C. Law 7-176, § 9(a), 35 DCR 4787; Dec. 10, 2005, D.C. Law 16-40, § 2(a), 52 DCR 9087; Dec. 5, 2008, D.C. Law 17-281, § 104(a), 55 DCR 9186.)

**Prior Codifications.** — 1981 Ed., § 6-1001. 1973 Ed., § 6-2401.

**Effect of amendments.** — D.C. Law 16-40, designated existing text of par. (1) as subpar. (1)(A); added subpar. (1)(B); and added pars. (3A) and (3B).

D.C. Law 17-281, in par. (2), substituted “Animal Care and Control Agency” for “Animal Control Agency”.

**Legislative history of Law 3-30.** — Law 3-30, the “Animal Control Act of 1979,” was introduced in Council and assigned Bill No. 3-75, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 19, 1979 and July 3, 1979, respectively. Signed by the Mayor on August 7, 1979, it was assigned Act No. 3-80 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-176.** — For legislative history of D.C. Law 7-176, see Historical and Statutory Notes following § 8-1901.

**Legislative history of Law 16-40.** — Law 16-40, the “Dog Park Establishment Amendment Act of 2005,” was introduced in Council and assigned Bill No. 16-28 and was retained by Council. The Bill was adopted on first and second readings on July 6, 2005, and September 20, 2005, respectively. Signed by the Mayor

on October 4, 2005, it was assigned Act No. 16-182 and transmitted to both Houses of Congress for its review. D.C. Law 16-40 became effective on December 10, 2005.

**Legislative history of Law 17-281.** — Law 17-281, the “Animal Protection Amendment Act of 2008,” was introduced in Council and assigned Bill No. 17-89 which was referred to the Committees on Health and Public Safety and Judiciary. The Bill was adopted on first and second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-493 and transmitted to both Houses of Congress for its review. D.C. Law 17-281 became effective on December 5, 2008.

**Delegation of Authority.** — Delegation of authority under D.C. Law 3-30, the “Animal Control Act of 1979,” see Mayor’s Order 2000-97, June 14, 2000 (47 DCR 5275).

Delegation of Authority pursuant to D.C. Law 3-30, the Animal Control Act of 1979, see Mayor’s Order 2009-38, March 23, 2009 (56 DCR 6774).

**Editor’s notes.** — Mayor authorized to issue rules: Section 2(f) of D.C. Law 9-236 provided that the Mayor may issue rules to implement the provisions of the act pursuant to subchapter I of Chapter 5 of Title 2.

## § 8-1802. Animal Care and Control Agency.

(a) The Mayor may contract, either by negotiation or competitive bid, with a District of Columbia humane organization to serve as the Animal Care and Control Agency. The Mayor may delegate all or part of his authority under this subchapter, including the issuance of notices of violations, to the Animal Care and Control Agency; provided, that only a sworn member of the Metropolitan Police Department may serve a notice of violation with respect to § 8-1808(a) outside the premises of the animal shelter.

(b) The Animal Care and Control Agency shall:

(1) Deliver all fees collected under this subchapter to the Mayor;

(2) Allow the Mayor or the Mayor's designee to inspect the Animal Care and Control Agency to determine compliance with District laws, regulations, policies, and contractual obligations;

(3) Ensure that all contractually required records are accurate, easily accessible, and available at all times;

(4) Immediately inform the Mayor or the Mayor's designee of any significant changes in its operations or leadership.

(c) The Animal Care and Control Agency shall promote:

(1) The reduction of euthanasia of animals for which medical treatment or adoption is possible; and

(2) The utilization of trap, spay or neuter, and return practices as a means of controlling the feral cat population; provided, that all efforts shall be made to adopt out a trapped, tamable kitten.

(Oct. 18, 1979, D.C. Law 3-30, § 3, 26 DCR 765; Sept. 16, 1980, D.C. Law 3-97, § 2(a), 27 DCR 3523; Dec. 5, 2008, D.C. Law 17-281, § 104(b), 55 DCR 9186.)

**Section references.** — This section is referenced in § 8-2001 and § 8-2201.

**Prior Codifications.** — 1981 Ed., § 6-1002. 1973 Ed., § 6-2402.

**Effect of amendments.** — D.C. Law 17-281, in the section heading and subsec. (a), substituted "Animal Care and Control Agency" for "Animal Control Agency"; rewrote subsec. (b) which read: "The Animal Control Agency shall deliver all fees collected under this chapter to the Mayor."; and added subsec. (c)

**Legislative history of Law 3-30.** — For legislative history of D.C. Law 3-30, see Historical and Statutory Notes following § 8-1801.

**Legislative history of Law 3-97.** — Law 3-97, the "Animal Control Act Amendment Act of 1980," was introduced in Council and as-

signed Bill No. 3-211, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 17, 1980 and July 1, 1980, respectively. Signed by the Mayor on July 16, 1980, it was assigned Act No. 3-219 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1801.

**Delegation of Authority.** — Delegation of authority pursuant to Law 3-30, see Mayor's Order 83-206, August 2, 1983, as amended by Mayor's Order 86-64, April 22, 1986

Delegation of authority pursuant to Law 3-30, The Animal Control Act of 1979, see Mayor's Order 2009-38, March 23, 2009 (56 DCR 6774)

## § 8-1803. Vaccinations.

(a) An owner who has a dog over the age of 4 months shall have the dog vaccinated against rabies and distemper. Pursuant to rules issued by the Mayor, an owner of a cat over the age of 4 months shall have that cat vaccinated against rabies.

(b) The Mayor shall provide a free anti-rabies vaccination clinic annually.

(Oct. 18, 1979, D.C. Law 3-30, § 4, 26 DCR 765; Mar. 10, 1983, D.C. Law 4-199, § 4(a), 30 DCR 119.)

**Prior Codifications.** — 1981 Ed., § 6-1003. 1973 Ed., § 6-2403.

**Legislative history of Law 3-30.** — For legislative history of D.C. Law 3-30, see Historical and Statutory Notes following § 8-1801.

**Legislative history of Law 4-199.** — Law 4-199, the "Christmas Tree Act of 1982," was introduced in Council and assigned Bill No. 4-427, which was referred to the Committee on

Human Services. The Bill was adopted on first and second readings on November 16, 1982, and December 14, 1982, respectively. Signed by the Mayor on December 28, 1982, it was assigned Act No. 4-283 and transmitted to both Houses of Congress for its review.

**Delegation of Authority.** — Delegation of authority under Law 3-30, see Mayor's Order 83-206, August 2, 1983.



**§ 8-1804. Licenses and fees.**

(a) For purposes of this section, “owner” shall not include:

- (1) A licensed veterinary hospital;
- (2) A licensed pet shop; and

(3) An incorporated animal welfare agency not engaged in the sale of animals.

(b) An owner who has a dog over the age of 4 months shall before July 1st of each year, or within 10 days of acquiring the dog, or within 10 days after the dog becomes 4 months of age, obtain an annual license. An owner shall ensure that his dog wears a collar and a license.

(c) Before any annual license may be issued, the owner of the dog shall have the dog vaccinated against rabies and distemper, and shall pay any outstanding fines.

(d) Repealed.

(e) The annual license fees for dogs is as follows:

(1) No fee for a dog trained as a service animal and actually used for the purpose of assisting a person with a physical or sensory impairment, such as a vision or hearing impairment;

(2) \$15 for a male or female dog certified by a licensed veterinarian as neutered or spayed or certified as incapable of enduring spaying or neutering; and

(3) \$50 for all other dogs.

(e-1) All the fees collected pursuant to subsection (e) of this section shall be deposited in the General Fund of the District of Columbia.

(f) The Mayor may periodically revise the schedule of fees by rulemaking.

(g) No license may be transferred from 1 dog to another.

(h) Any license issued pursuant to this section may be issued by the Department of Health or by a veterinarian licensed in the District of Columbia pursuant to § 3-512.02. A veterinarian may collect an additional \$2 for each license issued as reimbursement for administrative costs.

(i) Repealed.

(j)(1) There is established as a nonlapsing fund the Sterilization Fund (“Fund”), which shall be used solely for the purposes set forth in this subsection.

(2) Deposits into the Fund shall include:

(A) Two dollars from each fee paid for the application, issuance, or renewal of a dog license;

(B) Funds authorized by an act of Congress, a reprogramming, or an intra-District transfer to be deposited into the Fund;

(C) Any other monies designated by law or regulation to be deposited into the Fund;

(D) Interest on money deposited in the Fund.

(3) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection

(d) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(4)(A) Monies in the Fund shall be used to subsidize sterilization of cats and dogs owned by persons within the District of Columbia.

(B) The Mayor may issue grants to appropriate animal welfare organizations that are experienced in subsidized sterilization efforts.

(Oct. 18, 1979, D.C. Law 3-30, § 5, 26 DCR 765; Mar. 17, 1993, D.C. Law 9-236, § 2(a), 40 DCR 614; Sept. 26, 1995, D.C. Law 11-52, § 101, 42 DCR 3684; Apr. 20, 1999, D.C. Law 12-261, § 2004, 46 DCR 3142; Apr. 24, 2007, D.C. Law 16-305, § 30, 53 DCR 6198; Dec. 5, 2008, D.C. Law 17-281, § 104(c), 55 DCR 9186; Sept. 14, 2011, D.C. Law 19-21, § 9073, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 8005, 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 64, 59 DCR 6190.)

**Section references.** — This section is referenced in § 8-1801, § 8-1806, and § 8-1807.

**Prior Codifications.** — 1981 Ed., § 6-1004. 1973 Ed., § 6-2404.

**Effect of amendments.** — D.C. Law 16-305, substituted “deaf, hearing impaired,” for “audio-handicapped,” throughout the section.

D.C. Law 17-281 repealed subsec. (d); rewrote subssecs. (e), (f), and (h); and added subssecs. (i) and (j).

D.C. Law 19-21 added subsec. (e-1).

The 2012 amendment by D.C. Law 19-168 repealed (i).

The 2012 amendment by D.C. Law 19-171 substituted “this subsection” for “subsection (d) of this section” in (j)(1).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 101 of Multiyear Budget Spending Reduction and Support Temporary Act of 1995 (D.C. Law 10-253, March 23, 1995, law notification 42 DCR 1652).

**Emergency legislation.** — For temporary amendment of section, see § 101 of the Multiyear Budget Spending Reduction and Support Emergency Act of 1994 (D.C. Act 10-389, December 29, 1994, 42 DCR 197).

For temporary (90 day) amendment of section, see § 8005 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 8005 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

**Legislative history of Law 3-30.** — For legislative history of D.C. Law 3-30, see Historical and Statutory Notes following § 8-1801.

**Legislative history of Law 9-236.** — Law 9-236, the “Animal Control Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-306, which was referred to the Com-

mittee on Human Services. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on December 31, 1992, it was assigned Act No. 9-368 and transmitted to both Houses of Congress for its review. D.C. Law 9-236 became effective on March 17, 1993.

**Legislative history of Law 11-52.** — Law 11-52, the “Omnibus Budget Support Act of 1995,” was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

**Legislative history of Law 12-261.** — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

**Legislative history of Law 16-305.** — Law 16-305, the “People First Respectful Language Modernization Act of 2006,” was introduced in Council and assigned Bill No. 16-664, which was referred to Committee on the Whole. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 17, 2006, it was assigned Act No. 16-437 and transmitted to both Houses of Congress for its review. D.C. Law 16-305 became effective on April 24, 2007.

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1801.



**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 8-102.03.

**Legislative history of Law 19-168.** — Law 19-168, the “Fiscal Year 2013 Budget Support Act of 2012,” was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned

Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

**Editor’s notes.** — Section 8010 of D.C. Law 19-168 provided that §§ 8002, 8003, 8004, 8005, 8006, and 8007 of the act shall apply as of September 14, 2011.

**Delegation of Authority.** — Delegation of authority pursuant to Law 3-30, see Mayor’s Order 83-206, August 2, 1983, as amended by Mayor’s Order 86-64, April 22, 1986.

## § 8-1805. Impoundment.

(a) The Mayor shall impound any dogs, cats, rabbits, or ferrets, the combination of which exceeds 4 animals, or any dogs, cats, rabbits, or ferrets beyond the number authorized in an animal hobby permit issued pursuant to § 8-1809.

(b) Upon impounding an animal, the Mayor shall make a prompt and reasonable attempt to locate and notify the owner of the impounded animal, including scanning the animal for a microchip.

(c) The Mayor may dispose of any wild, sick, or badly injured animal upon its impoundment.

(d) The Mayor shall provide appropriate vaccinations for each animal upon its impoundment.

(e) The Mayor shall provide appropriate veterinary services for each dog wearing a valid license upon its impoundment.

(f) The Mayor shall deem abandoned any animal impounded and not redeemed by its owner within 7 days of impoundment if such animal is wearing identification. If notice is given under subsection (b) of this section, the owner has 7 days from the date of the notice to claim the animal. Any animal impounded not wearing identification shall be deemed abandoned if not redeemed by its owner within 5 days of impoundment. An animal deemed abandoned shall become the property of the District of Columbia and may be adopted or disposed of in a humane manner.

(g) The Mayor shall not release an animal unless it is vaccinated against rabies.

(h) The Mayor shall not release a sick or dangerous animal to anyone other than a licensed veterinarian until reasonably satisfied that it is safe to do so.

(i) The Mayor shall adopt rules for disposing of animals impounded under this section in accordance with § 2-505.

(Oct. 18, 1979, D.C. Law 3-30, § 6, 26 DCR 765; Sept. 16, 1980, D.C. Law 3-97, § 2(b), 27 DCR 3523; Mar. 17, 1993, D.C. Law 9-236, § 2(b), 40 DCR 614; Dec. 5, 2008, D.C. Law 17-281, § 104(d), 55 DCR 9186.)

**Section references.** — This section is referenced in § 8-1806.

**Prior Codifications.** — 1981 Ed., § 6-1005. 1973 Ed., § 6-2405.



**Effect of amendments.** — D.C. Law 17-281 rewrote subsec. (a); and, in subsec. (b), substituted “impounded animal, including scanning the animal for a microchip” for “impounded animal”. Prior to amendment, subsec. (a) read as follows: “(a) The Mayor may impound any animal at large or any dangerous animal.”

**Legislative history of Law 3-30.** — For legislative history of D.C. Law 3-30, see Historical and Statutory Notes following § 8-1801.

**Legislative history of Law 3-97.** — For

legislative history of D.C. Law 3-97, see Historical and Statutory Notes following § 8-1802.

**Legislative history of Law 9-236.** — For legislative history of D.C. Law 9-236, see Historical and Statutory Notes following § 8-1804.

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1801.

**Delegation of Authority.** — Delegation of authority under Law 3-30, see Mayor’s Order 83-206, August 2, 1983.

## § 8-1806. Release to owner.

(a) The Mayor shall not release a dog to its owner unless the owner has obtained a license as provided in § 8-1804.

(b) An owner of an animal that is impounded shall pay the following:

(1) An impoundment fee of \$15 for animals certified by a licensed veterinarian as either spayed or neutered or incapable of enduring spaying or neutering;

(2) An impoundment fee of \$15 for unneutered and unspayed animals, provided the owner agrees to have the animal sterilized and prepays the cost of the surgery;

(3) An impoundment fee of \$75 for dogs and \$50 for all other animals that have not been spayed or neutered, where the owner does not utilize the option in paragraph (2) of this subsection;

(4) A boarding fee of \$5 for each night after the 1st night;

(5) The cost of veterinary services, including vaccinations, provided by the Mayor; and

(6) Any outstanding fines.

(c) The Mayor shall issue a notice of violation to an owner of an animal impounded under § 8-1805 except that this subsection shall not apply the 1st time an owner has an animal impounded.

(Oct. 18, 1979, D.C. Law 3-30, § 7, 26 DCR 765; Mar. 17, 1993, D.C. Law 9-236, § 2(c), 40 DCR 614.)

**Prior Codifications.** — 1981 Ed., § 6-1006. 1973 Ed., § 6-2406.

**Legislative history of Law 3-30.** — For legislative history of D.C. Law 3-30, see Historical and Statutory Notes following § 8-1801.

**Legislative history of Law 9-236.** — For legislative history of D.C. Law 9-236, see Historical and Statutory Notes following § 8-1804.

## § 8-1807. Adoption.

(a) The Mayor shall not release a dog for adoption unless the person adopting the dog obtains a license as provided in § 8-1804.

(b)(1) The Mayor shall not release a female animal over the age of 6 months for adoption unless:

(A) The animal has been spayed; and

(B) The person adopting the animal has paid the expense of spaying.

(2) The Mayor shall not release a female animal under the age of 6 months for adoption unless the person adopting the animal has paid the expense of

spaying the animal. The person adopting the animal shall have it spayed before it becomes 6 months of age.

(3) The Mayor shall not release a male animal over the age of 10 months for adoption unless:

(A) The animal has been neutered; and

(B) The person adopting the animal has paid the expense of neutering.

(4) The Mayor shall not release a male animal under the age of 10 months for adoption unless the person adopting the animal has paid the expense of neutering the animal. The person adopting the animal shall have it neutered before it becomes 10 months of age.

(5) The Mayor shall refund any money collected for the purpose of spaying or neutering an animal upon proof that the animal has been spayed or neutered by a private veterinarian.

(Oct. 18, 1979, D.C. Law 3-30, § 8, 26 DCR 765; Sept. 16, 1980, D.C. Law 3-97, § 2(c), 27 DCR 3523.)

**Prior Codifications.** — 1981 Ed., § 6-1007. 1973 Ed., § 6-2407.

**Legislative history of Law 3-30.** — For legislative history of D.C. Law 3-30, see Historical and Statutory Notes following § 8-1801.

**Legislative history of Law 3-97.** — For

legislative history of D.C. Law 3-97, see Historical and Statutory Notes following § 8-1802.

**Delegation of Authority.** — Delegation of authority under Law 3-30, see Mayor's Order 83-206, August 2, 1983.

## § 8-1808. Prohibited conduct.

(a) No owner of an animal shall allow the animal to go at large.

(b) No person shall knowingly and falsely deny ownership of any animal.

(c) No person shall remove the license of a dog without the permission of its owner.

(d) No person shall change the natural color of a baby chicken, duckling, other fowl or rabbit.

(e) No dog shall be permitted on any school ground when school is in session or on any public recreation area, other than a dog park, unless the dog is leashed.

(f) No person shall sell or offer for sale a baby chicken, duckling, other fowl, or rabbit that has had its natural color changed.

(g) No person shall sell or offer for sale a rabbit under the age of 16 weeks or a chick or duck under the age of 8 weeks except for agricultural or scientific purposes.

(h)(1) Except as provided in this subsection, no person shall import into the District, possess, display, offer for sale, trade, barter, exchange, or adoption, or give as a household pet any living member of the animal kingdom including those born or raised in captivity, except the following: domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), domesticated rodents and rabbits, captive-bred species of common cage birds, nonpoisonous snakes, fish, and turtles, traditionally kept in the home for pleasure rather than for commercial purposes, and racing pigeons (when kept in compliance with permit requirements).

(2) A person may offer the species enumerated in paragraph (1) of this subsection to a public zoo, park, or museum for exhibition purposes.

(3) This section shall not apply to federally licensed animal exhibitors; however, the Mayor retains the authority to restrict the movement of any prohibited animal into the District and the conditions under which those movements are made.

(4) The Mayor may allow a licensed wildlife rehabilitator, a licensed veterinarian, or a licensed animal shelter to maintain an animal prohibited in this subsection for treatment or pending appropriate disposition.

(5) Paragraph (1) of this subsection shall not apply to persons who own or possess domestic dog hybrids of wolves, coyotes, or jackals prior to March 17, 1993.

(i) No person may sponsor, promote, train an animal to participate in, contribute to the involvement of an animal in, or attend as a spectator any activity or event in which any animal engages in unnatural behavior, is wrestled or fought, mentally or physically harassed, or displayed in such a way that the animal is struck, abused, or mentally or physically stressed or traumatized, or is induced, goaded or encouraged to perform or react through the use of chemical, mechanical, electrical, or manual devices in a manner that will cause, or is likely to cause, physical or other injury or suffering. This prohibition applies to any event or activity at a public or private facility or property and is applicable regardless of the purpose of the event or activity and regardless of whether a fee is charged to spectators.

(j) No person who has control or custody of a dog shall, direct, encourage, cause, allow or otherwise aid or assist that dog to threaten, charge, bite, or attack a person or other animal, except that a person may keep a properly trained dog on private property to defend it and its occupants from intruders, and may order a dog to defend a person under attack. This section shall not apply to dogs who work for the Metropolitan Police Department or any other law enforcement agency.

(k) No person may display, exhibit, or otherwise move animals in the District of Columbia as part of a circus, carnival, or other special performance or event, without first obtaining a permit, issued by the Mayor, that governs the care and management of the animals.

(Oct. 18, 1979, D.C. Law 3-30, § 9, 26 DCR 765; Sept. 16, 1980, D.C. Law 3-97, § 2(d), (e), (g), 27 DCR 3523; Mar. 10, 1983, D.C. Law 4-199, § 4(b), 30 DCR 119; Mar. 17, 1993, D.C. Law 9-236, § 2(d), 40 DCR 614; June 8, 2001, D.C. Law 13-303, § 4, 47 DCR 7307; Dec. 10, 2005, D.C. Law 16-40, § 2(b), 52 DCR 9087; Dec. 5, 2008, D.C. Law 17-281, § 104(e), 55 DCR 9186.)

**Section references.** — This section is referenced in § 8-1802.

**Prior Codifications.** — 1981 Ed., § 6-1008. 1973 Ed., § 6-2408.

**Effect of amendments.** — D.C. Law 13-303 added subsec. (j).

D.C. Law 16-40, in subsec. (e), substituted

“public recreation area, other than a dog park,” for “public recreation area”.

D.C. Law 17-281, in subsec. (h)(2), substituted “or museum for exhibition purposes” for “museum, or educational institution for educational, medical, scientific, or exhibition purposes”; and added subsec. (k).



**Temporary legislation.** — Section 2 of D.C. Law 19-209 added (h)(6) to read as follows:  
“(h)

\*\*\*\*\*

“(6) Paragraph (1) of this subsection shall not apply to educational institutions that possess animals for educational and instructional purposes and that otherwise comply with humane, sanitary, and safe treatment requirements, as set forth in section 502 of the Animal Protection Amendment Act of 2008, effective December 5, 2008 (D.C. Law 17-281; D.C. Official Code § 8-1851.02).”

Section 4(b) of D.C. Law 19-209 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary amendment of section, see § 2(a) of the Dangerous Dog Designation Emergency Amendment Act of 1996 (D.C. Act 11-351, August 12, 1996, 43 DCR 4553).

For temporary addition of (h)(6), see § 2 of the Classroom Animal for Educational Purposes Clarification Emergency Amendment Act of 2012 (D.C. Act 19-466, October 5, 2012, 59 DCR 11767).

For temporary addition of (h)(6), see § 2 of the Classroom Animal for Educational Purposes Clarification Congressional Review

Emergency Amendment Act of 2012 (D.C. Act 19-624, January 18, 2013, 60 DCR 1344), applicable as of January 3, 2013.

**Legislative history of Law 3-30.** — For legislative history of D.C. Law 3-30, see Historical and Statutory Notes following § 8-1801.

**Legislative history of Law 3-97.** — For legislative history of D.C. Law 3-97, see Historical and Statutory Notes following § 8-1802.

**Legislative history of Law 4-199.** — For legislative history of D.C. Law 4-199, see Historical and Statutory Notes following § 8-1803.

**Legislative history of Law 9-236.** — For legislative history of D.C. Law 9-236, see Historical and Statutory Notes following § 8-1804.

**Legislative history of Law 13-303.** — Law 13-303, the “Freedom From Cruelty to Animals Protection Amendment Act of 2000”, was introduced in Council and assigned Bill No. 13-473, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 6, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 4, 2000, it was assigned Act No. 13-418 and transmitted to both Houses of Congress for its review. D.C. Law 13-303 became effective on June 8, 2001.

**Legislative history of Law 16-40.** — For Law 16-40, see notes following § 8-1801.

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1801.

## CASE NOTES

### In general.

Trial court was warranted in not requiring jury to find that a violation of the District of Columbia’s former leash law was negligence per se, where the statute did not contain the kind of specific guidelines that would allow one to determine whether the statute had been violated without resorting to a common law reasonable care analysis even though it set a general standard of care for animal owners. *Chadbourne v. Kappaz*, 779 A.2d 293, 2001 D.C. App. LEXIS 184 (2001).

Trial court’s error, if any, in not requiring jury to find that a violation of the District of Columbia’s former “leash law” was negligence per se, did not prejudice pedestrian who suffered injuries after grabbing owners’ dog, in light of trial court’s further instructions that in order to violate the law, the owners had to intentionally permit their dog to run free at large or negligently permit their dog to run free at large by failing to use reasonable care to comply with the statute. *Chadbourne v. Kappaz*, 779 A.2d 293, 2001 D.C. App. LEXIS 184 (2001).

## § 8-1808.01. Dog parks.

(a) The Mayor is authorized to establish dog parks on District-owned parkland in which a dog under the verbal command of a responsible adult may exercise off-leash.

(b) A dog park shall be completely enclosed by a fence and gate, both no less than 5 feet in height.

(c) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this section. The rules shall:

(1) Establish procedures for selecting a site for establishment of a dog park, which shall include notice to the public and an opportunity for public comment; and

(2) Establish procedures for the operation, maintenance, and use of a dog park, which shall include a process for enforcement of the rules and for monitoring and addressing health and environmental safety concerns.

(Oct. 18, 1979, D.C. Law 3-30, § 9a, as added Dec. 10, 2005, D.C. Law 16-40, § 2(c), 52 DCR 9087.)

**Legislative history of Law 16-40.** — For Law 16-40, see notes following § 8-1801.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 3-30, the Ani-

mal Control Act of 1979, as amended by D.C. Law 16-40, the Dog Park Establishment Act of 2005, see Mayor's Order 2007-53, February 7, 2007 (54 DCR 2428).

## § 8-1809. Animal hobby permit.

(a) No person shall own or keep 7 or more mammals, larger than a guinea pig and over the age of 4 months, without obtaining an animal hobby permit: Except, that this section shall not apply to a licensed pet shop, licensed veterinary hospital, circus or traveling exhibition.

(b) An owner of 7 or more mammals shall before July 1st of each year or within 10 days of acquiring 7 or more mammals obtain the permit required by this section.

(c) An owner applying for an animal hobby permit shall fully describe the kind and number of mammals to be maintained and the premises where the mammals are to be kept.

(d) No animal hobby permit shall be issued to:

(1) An owner unless the owner has obtained the necessary animal licenses as required by law;

(2) An owner who maintains mammals for commercial purposes. For purposes of this section, "commercial purposes" shall not include the sale of offspring if such sales are occasional and are not the primary purpose for maintaining the mammals.

(e) The Mayor shall collect the fees and issue the permits as provided in this section.

(f) A holder of an animal hobby permit shall provide his mammals with appropriate veterinary care. A holder of an animal hobby permit shall maintain the premises and enclosures where the mammals are kept in a clean and sanitary condition.

(g) A holder of an animal hobby permit shall not permit objectionable odors or noises to disturb the comfort or quiet of any neighborhood. A holder of an animal hobby permit shall not permit a mammal to commit a nuisance on public space or property owned by others.

(h) The Mayor may revoke an animal hobby permit for failure to comply with the provisions of this section.

(Oct. 18, 1979, D.C. Law 3-30, § 10, 26 DCR 765; Dec. 5, 2008, D.C. Law 17-281, § 104(f), 55 DCR 9186.)

**Section references.** — This section is referenced in § 8-1805.

**Prior Codifications.** — 1981 Ed., § 6-1009. 1973 Ed., § 6-2409.

**Effect of amendments.** — D.C. Law 17-281, in subsecs. (a) and (b), substituted "7 or more" for "5 or more"; and rewrote subsec. (d)(1), which had read as follows: "(1) A dog

owner unless the owner has obtained a license for each dog as provided in § 8-1804.”.

**Legislative history of Law 3-30.** — For legislative history of D.C. Law 3-30, see Historical and Statutory Notes following § 8-1801.

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1801.

**Delegation of Authority.** — Delegation of authority pursuant to Law 3-30, see Mayor’s Order 83-206, August 2, 1983, as amended by Mayor’s Order 86-64, April 22, 1986.

## § 8-1810. Education and incentive program.

The Mayor shall implement an education and incentive program, which shall include the following:

- (1) Low cost spay and neuter clinic services; and
- (2) Program for education of animal owners.

(Oct. 18, 1979, D.C. Law 3-30, § 11, 26 DCR 765.)

**Prior Codifications.** — 1981 Ed., § 6-1010. 1973 Ed., § 6-2410.

**Legislative history of Law 3-30.** — For legislative history of D.C. Law 3-30, see Historical and Statutory Notes following § 8-1801.

**Delegation of Authority.** — Delegation of authority pursuant to law 3-30, see Mayor’s Order 83-206, August 2, 1983.

## § 8-1811. Penalty.

Each person who violates a provision of this subchapter shall pay a fine not to exceed \$25 for the first violation, \$50 for the second violation occurring within a 24-month period, and \$100 for each subsequent violation occurring within a 24-month period.

(Oct. 18, 1979, D.C. Law 3-30, § 12, 26 DCR 765; Mar. 17, 1993, D.C. Law 9-236, § 2(e), 40 DCR 614.)

**Prior Codifications.** — 1981 Ed., § 6-1011. 1973 Ed., § 6-2411.

**Emergency legislation.** — For temporary amendment of section, see § 2(b) of the Dangerous Dog Designation Emergency Amendment Act of 1996 (D.C. Act 11-351, August 12, 1996, 43 DCR 4553).

**Legislative history of Law 3-30.** — For legislative history of D.C. Law 3-30, see Historical and Statutory Notes following § 8-1801.

**Legislative history of Law 9-236.** — For legislative history of D.C. Law 9-236, see Historical and Statutory Notes following § 8-1804.

## § 8-1812. Civil liability.

If a dog injures a person while at large, lack of knowledge of the dog’s vicious propensity standing alone shall not absolve the owner from a finding of negligence.

(Sept. 16, 1980, D.C. Law 3-97, § 2(f), 27 DCR 3523.)

**Prior Codifications.** — 1981 Ed., § 6-1012. **Legislative history of Law 3-97.** — For

legislative history of D.C. Law 3-97, see Historical and Statutory Notes following § 8-1802.

## § 8-1813. Notice of violation.

(a) The Mayor may issue a notice of violation to any person who violates a provision of this subchapter.



(b) A notice of violation shall:

- (1) State the nature of the violation; and
- (2) Describe the procedures provided in this section.

(c) A notice of violation shall be the summons and complaint for the purposes of this subchapter.

(d) A person shall answer a notice of violation within 15 days by:

(1) Depositing and forfeiting collateral in an amount established by the Superior Court of the District of Columbia; or

(2) Depositing collateral in an amount established by the Superior Court of the District of Columbia and requesting, through the issuing agency, a trial in Court.

(e) The Mayor shall prescribe the form for the notice of violation and establish procedures for the administrative control of the notice of violation.

(Oct. 18, 1979, D.C. Law 3-30, § 13, 26 DCR 765.)

**Prior Codifications.** — 1981 Ed., § 6-1013.  
1973 Ed., § 6-2412.

**Legislative history of Law 3-30.** — For legislative history of D.C. Law 3-30, see Historical and Statutory Notes following § 8-1801.

**Delegation of Authority.** — Delegation of authority under Law 3-30, see Mayor's Order 83-206, August 2, 1983.

## *Subchapter II. Commercial Licensing Requirement.*

### **§ 8-1821.01. Commercial animal breeder license.**

(a) Within 180 days of December 5, 2008, the Mayor shall establish licensure requirements for commercial animal breeders in the District of Columbia, which shall include:

- (1) Licensing fees;
- (2) Standards for the care and management of animals; and
- (3) Facility inspection requirements.

(b) For the purposes of this section, the term “commercial animal breeder” means any person, firm, organization, or corporation engaged in the operation of breeding and raising more than 25 animals per year for sale or in return for consideration.

(Dec. 5, 2008, D.C. Law 17-281, § 201, 55 DCR 9186.)

**Legislative history of Law 17-281.** — Law 17-281, the “Animal Protection Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-89 which was referred to the Committees on Health and Public Safety and Judiciary. The Bill was adopted on first and second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-493 and transmitted to both Houses of Congress for

its review. D.C. Law 17-281 became effective on December 5, 2008.

**Editor's notes.** — Section 701 of D.C. Law 17-281 provided: “Sec. 701. Rulemaking. The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), shall issue rules to implement the provisions of this act.”

### **§ 8-1821.02. Commercial pet care facilities; rulemaking.**

(a) No person shall operate a commercial pet care facility without first

obtaining a basic business license with an Inspected Sales and Services license endorsement pursuant to Title 47. The Mayor shall issue rules to establish the standards for the care and management of animals in a commercial pet care facility.

(b) For the purposes of this section, the term “commercial pet care facility” means a facility that provides day or overnight boarding, or provides pet-related services, including feeding, exercise, training, bathing, or grooming, but does not include an animal facility as defined in § 3-502 or a licensed pet shop.

(Dec. 5, 2008, D.C. Law 17-281, § 202, 55 DCR 9186.)

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1841.01.

### *Subchapter II-A. Sustainable Urban Agriculture Apiculture.*

#### **§ 8-1825.01. Short title.**

This subchapter may be cited as the “Sustainable Urban Agriculture Apiculture Act of 2012”.

(Apr. 20, 2013, D.C. Law 19-262, § 211, 60 DCR 1300.)

**Legislative history of Law 19-262.** — Law 19-262, the “Sustainable DC Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-756. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 16, 2013, it was assigned Act No. 19-615 and transmitted to Congress for its review. D.C. Law 19-262 became effective on Apr. 20, 2013.

#### **§ 8-1825.02. Definitions.**

For the purposes of this subchapter, the term:

- (1) “Africanized bee” means a hybrid variety of *Apis mellifera* produced by the cross-breeding of the aggressive African honey bee *Apis mellifera scutellata* with a European honey bee subspecies.
- (2) “Apiary” means a place where a colony is kept.
- (3) “Bee disease” means an abnormal condition resulting from action by a parasite, predator, or infectious agent.
- (4) “Brood” means the embryo and egg, larva, and pupa stages of a bee.
- (5) “Colony” means a hive and its equipment and appurtenances, including bees, brood, comb, pollen, and honey.
- (6) “Comb” means the assemblage of cells containing a living stage of a bee at a time prior to emergence as an adult.
- (7) “Department” means the District Department of the Environment.
- (8) “Hive” means a container intended for the housing of a colony.
- (9) “Honey bee” or “bee” means *Apis mellifera*.
- (10) “Multi-unit” means a building with at least 4 separate housing units.
- (11) “Person” means an individual, partnership, corporation, trust, association, firm, joint stock company, organization, commission, or any other private entity.

(12) “Property” means a parcel of land where an apiary is located.

(Apr. 20, 2013, D.C. Law 19-262, § 212, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-1825.01.

### **§ 8-1825.03. General authorization and restrictions.**

A colony may be kept in the District only if it is established and maintained in a manner consistent with this subchapter.

(Apr. 20, 2013, D.C. Law 19-262, § 213, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-1825.01.

### **§ 8-1825.04. Responsibilities of beekeepers.**

(a) A colony shall be annually registered with the Department.

(b) No person shall bring into the District bees on combs, empty used combs, used hives, or other used apiary appliances without first obtaining a permit from the Mayor.

(c) A colony shall be kept in Langstroth-type hives or Top Bar hives with removable combs, maintained in sound and usable condition and with adequate space in the hive to prevent overcrowding and deter swarming.

(d) A convenient source of water on the property shall be available to a colony.

(e) Beekeepers shall remediate promptly bee swarms and nuisance conditions.

(Apr. 20, 2013, D.C. Law 19-262, § 214, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-1825.01.

### **§ 8-1825.05. Colony density and distance from property line.**

(a) No more than 4 hives may be kept on any one-quarter acre area of a property. The number of hives on an adjacent property with a different owner shall not be limited by the maximum number of hives permitted under this subsection.

(b) Except as provided in subsection (c) of this section, a hive shall be located at least 15 feet from a property line.

(c) A hive may be located 5 feet from a property line if a flyway barrier that prevents the passage of bees is maintained. The flyway barrier shall consist of a dense hedge, solid wall, or solid fence parallel to the property line at least 6 feet in height and extending 10 feet beyond the colony in each direction, or annual approval is granted from neighbors whose properties are located within 30 feet of the site of the proposed hive.



(d) A colony may be established in a multi-unit building only if permission is secured from the property manager or owner.

(Apr. 20, 2013, D.C. Law 19-262, § 215, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-1825.01.

### **§ 8-1825.06. Colony disposition.**

(a) A colony shall be selected from European stock bred for gentleness and non-swarming characteristics. No Africanized bees may be maintained in the District.

(b) If a colony exhibits unusual aggressive characteristics by stinging or attempting to sting without due provocation, or exhibits an unusual disposition toward swarming, the beekeeper shall promptly re-queen the colony with a marked queen.

(c) The Mayor may destroy a colony of a beekeeper who fails to fulfill the requirements of this section.

(Apr. 20, 2013, D.C. Law 19-262, § 216, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-1825.01.

### **§ 8-1825.07. Diseased colonies or equipment.**

(a) The Mayor may take measures to control the spread of bee diseases and may order a beekeeper to take measures to control the spread of bee diseases.

(b) The Mayor shall treat or destroy the bees, hives, and honey of a beekeeper who fails to take measures ordered by the Mayor to eradicate or control bee disease.

(Apr. 20, 2013, D.C. Law 19-262, § 217, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-1825.01.

### **§ 8-1825.08. Fees.**

(a) The Mayor may establish a schedule of fees for registration and may take any other action necessary to implement this subchapter.

(b) The Mayor may require a beekeeper to reimburse the District for the District's costs resulting from implementation of this subchapter with respect to the beekeeper.

(Apr. 20, 2013, D.C. Law 19-262, § 218, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-1825.01.

## § 8-1825.09. Rules; enforcement.

(a) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this subchapter.

(b) The Mayor may enforce this subchapter by use of any injunctive relief, measure, or combination of measures, authorized by this subchapter or otherwise by law.

(c) Civil fines, penalties, and fees may be imposed as sanctions for a violation of this subchapter or rules or regulations issued under the authority of this subchapter, pursuant to Chapter 18 of Title 2 [§ 2-1801.01 et seq.] (“Civil Infractions Act”).

(d) A person who violates this subchapter, or any rule or regulation adopted pursuant to this subchapter, shall be subject to the following penalties:

(1) In lieu of a penalty, the Mayor may issue a written warning notice that a violation has occurred.

(2) A violation shall be a class 4 infraction under the schedule of fines in section 3201 of Title 16 of the District of Columbia Municipal Regulations (16 DCMR § 3201), pursuant to the Civil Infractions Act.

(Apr. 20, 2013, D.C. Law 19-262, § 219, 60 DCR 1300.)

**Legislative history of Law 19-262.** — See note to § 8-1825.01.

### *Subchapter III. Release of Animals.*

## § 8-1831.01. Release of animals.

(a) No person shall release an animal from the custody or control of any entity charged with animal protection for any purpose except adoption or to improve the opportunity for adoption, redemption by the owner of the animal, or other suitable placement in the best interest of the animal. No animals shall be knowingly released from any entity charged with animal protection for the purposes of research, experimentation, testing, or medical instruction or demonstration.

(b) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 180 days, a fine of not more than \$1,000, or both.

(Dec. 5, 2008, D.C. Law 17-281, § 301, 55 DCR 9186.)

**Legislative history of Law 17-281.** — Law 17-281, the “Animal Protection Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-89 which was referred to the Committees on Health and Public Safety and Judiciary. The Bill was adopted on first and

second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-493 and transmitted to both Houses of Congress for its review. D.C. Law 17-281 became effective on December 5, 2008.

*Subchapter IV. Commercial Guard Dogs.*

**§ 8-1841.01. Definitions.**

For the purposes of this subchapter, the term “commercial guard dog” means any dog trained to guard, protect, patrol, or defend any commercial premises.

(Dec. 5, 2008, D.C. Law 17-281, § 401, 55 DCR 9186.)

**Legislative history of Law 17-281.** — Law 17-281, the “Animal Protection Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-89 which was referred to the Committees on Health and Public Safety and Judiciary. The Bill was adopted on first and second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-493 and transmitted to both Houses of Congress for its review. D.C. Law 17-281 became effective on December 5, 2008.

**§ 8-1841.02. License; immunizations.**

(a) All commercial guard dogs shall have a valid commercial guard dog license issued pursuant to District law. Upon issuance of a license, the Mayor shall issue a fluorescent guard dog identification tag, or such other tag as the Mayor determines appropriate, to be affixed to the collar or harness of the commercial guard dog to indicate the dog is a commercial guard dog.

(b) All commercial guard dogs shall be immunized against rabies and distemper pursuant to District law, and a current and valid certificate of these immunizations shall be retained on file by the owner of the commercial guard dog.

(Dec. 5, 2008, D.C. Law 17-281, § 402, 55 DCR 9186.)

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1841.01.

**§ 8-1841.03. Health.**

(a) All commercial guard dogs shall undergo an annual examination by a licensed veterinarian for the purpose of determining whether or not the animal is healthy and fit to work as a commercial guard dog. Upon a determination by a licensed veterinarian that a commercial guard dog is unfit to work, the dog shall not be used to guard, protect, patrol, or defend any commercial premises until the dog is re-examined by the veterinarian. Upon a determination by a licensed veterinarian that a commercial guard dog is permanently unfit to work, the dog shall be immediately retired.

(b) It shall be unlawful for any individual, business, or entity to cause, allow, use, or train commercial guard dogs that have undergone the surgical procedure of ventricular cordectomy.

(Dec. 5, 2008, D.C. Law 17-281, § 403, 55 DCR 9186.)

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1841.01.



#### § 8-1841.04. Insurance requirements.

An individual, business, or entity that utilizes a commercial guard dog shall maintain a general liability insurance policy for bodily injury, personal injury, and property damage of not less than \$50,000 to insure against liability resulting from acts of the animal performed while on guard duty.

(Dec. 5, 2008, D.C. Law 17-281, § 404, 55 DCR 9186.)

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1841.01.

#### § 8-1841.05. Notification requirements.

An individual, business, or entity that utilizes a commercial guard dog shall notify the Mayor, in writing, as to the presence of the animal and shall provide contact information for the entity responsible for the animal and a 24-hour emergency telephone number.

(Dec. 5, 2008, D.C. Law 17-281, § 405, 55 DCR 9186.)

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1841.01.

#### § 8-1841.06. Signage.

An individual, business, or entity that utilizes a commercial guard dog shall post a sign in plain view alerting the public to the presence of a commercial guard dog and shall include the name of the entity responsible for the animal and a 24-hour emergency telephone.

(Dec. 5, 2008, D.C. Law 17-281, § 406, 55 DCR 9186.)

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1841.01.

#### § 8-1841.07. Care of animal.

A commercial guard dog shall not be maintained on any premises unless the dog is provided:

- (1) Full access to an enclosed shelter sufficient to protect the dog from wind, rain, excessive heat or cold, and disease; and
- (2) Continuous access to sufficient food and water.

(Dec. 5, 2008, D.C. Law 17-281, § 407, 55 DCR 9186.)

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1841.01.

#### § 8-1841.08. Violation and penalty.

Any person found guilty of violating this subchapter shall be subject to a penalty of \$500 for the first offense and \$1,000 for each subsequent offense.

(Dec. 5, 2008, D.C. Law 17-281, § 408, 55 DCR 9186.)

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1841.01.

§ 8-1841.09. Rules.

The Mayor shall issue rules to implement the provisions of this subchapter.

(Dec. 5, 2008, D.C. Law 17-281, § 409, 55 DCR 9186; Sept. 26, 2012, D.C. Law 19-171, § 65, 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted “this subchapter” for “this section.”

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1841.01.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned

Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

*Subchapter V. Classroom Animals.*

§ 8-1851.01. Animals kept in schools.

Only animals of appropriate size and temperament suitable to a classroom environment shall be introduced into the classroom. Use of such animals shall be for instructional purposes only.

(Dec. 5, 2008, D.C. Law 17-281, § 501, 55 DCR 9186.)

**Legislative history of Law 17-281.** — Law 17-281, the “Animal Protection Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-89 which was referred to the Committees on Health and Public Safety and Judiciary. The Bill was adopted on first and

second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-493 and transmitted to both Houses of Congress for its review. D.C. Law 17-281 became effective on December 5, 2008.

§ 8-1851.02. Care of classroom animals.

(a) Animals kept in schools shall be provided sufficient food and water, be cared for in a safe and humane manner, and remain in schools during holidays only if provided adequate care.

(b) Animals no longer needed in the classroom should be adopted out to a suitable home or given to a local humane organization for adoption.

(Dec. 5, 2008, D.C. Law 17-281, § 502, 55 DCR 9186.)

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1851.01.

*Subchapter VI. Animal Emergency Preparedness.***§ 8-1861.01. Animal emergency preparedness plan.**

Within 90 days of December 5, 2008, the Mayor shall establish an emergency preparedness plan for the protection, sheltering, and evacuation of domestic animals during and following a major disaster or emergency.

(Dec. 5, 2008, D.C. Law 17-281, § 601, 55 DCR 9186.)

**Legislative history of Law 17-281.** — Law 17-281, the “Animal Protection Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-89 which was referred to the Committees on Health and Public Safety and Judiciary. The Bill was adopted on first and

second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-493 and transmitted to both Houses of Congress for its review. D.C. Law 17-281 became effective on December 5, 2008.



CHAPTER 19. DANGEROUS DOGS.

Sec.	Sec.
8-1901. Definitions.	8-1905. Dangerous dog and potentially dangerous dog owner responsibilities.
8-1902. Determination of a potentially dangerous or dangerous dog.	8-1906. Penalties.
8-1903. Consequences of a dangerous or potentially dangerous dog determination.	8-1907. Annual dangerous dog licensing drive; educational program.
8-1904. Dangerous dog and potentially dangerous dog registration requirements.	8-1908. Rules.

§ 8-1901. Definitions.

For the purposes of this chapter, the term:

(1)(A) “Dangerous dog” means any dog that without provocation:

(i) Causes a serious injury to a person or domestic animal; or

(ii) Engages in behavior described in paragraph (4)(A)(i) of this section subsequent to having been determined to be a potentially dangerous dog pursuant to § 8-1902.

(B) The term “dangerous dog” shall not include dogs used by law enforcement officials when the dog is being used for legitimate law enforcement purposes.

(2) “Impound” means taken into the custody of the Mayor.

(3) “Owner” means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of a dog.

(4)(A) “Potentially dangerous dog” means any dog that:

(i) Without provocation, chases or menaces a person or domestic animal in an aggressive manner, causing an injury to a person or domestic animal that is less severe than a serious injury;

(ii) In a menacing manner, approaches without provocation any person or domestic animal as if to attack, or has demonstrated a propensity to attack without provocation or otherwise to endanger the safety of human beings or domestic animals; or

(iii) Is running at-large and has been impounded by an animal control agency 3 or more times in the District within any 12-month period.

(B) The term “potentially dangerous dog” shall not include dogs used by law enforcement officials when the dog is being used for legitimate law enforcement purposes.

(5) “Proper enclosure” means secure confinement indoors or secure confinement outdoors in a locked structure designed and constructed to:

(A) Deter escape of the dog;

(B) Protect the dog from the elements; and

(C) Prevent contact with the dog from humans and other domestic animals.

(6) “Serious injury” means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery.

(Oct. 18, 1988, D.C. Law 7-176, § 2, 35 DCR 4787; Dec. 5, 2008, D.C. Law 17-281, § 105(a), 55 DCR 9186.)

**Section references.** — This section is referenced in § 8-1801.

**Prior Codifications.** — 1981 Ed., § 6-1021.1.

**Effect of amendments.** — D.C. Law 17-281 rewrote the section.

**Emergency legislation.** — For temporary amendment of section, see § 2(a) of the Pit Bull and Rottweiler Dangerous Dog Designation Emergency Amendment Act of 1996 (D.C. Act 11-257, April 16, 1996, 43 DCR 2156).

For temporary amendment of section, see § 3(a) of the Dangerous Dog Designation Emergency amendment Act of 1996 (D.C. Act 11-351, August 12, 1996, 43 DCR 4553).

**Legislative history of Law 7-176.** — Law 7-176, the “Dangerous Dog Amendment Act of 1988,” was introduced in Council and assigned Bill No. 7-276, which was referred to the Com-

mittee on Human Services. The Bill was adopted on first and second readings on May 17, 1988 and May 31, 1988, respectively. Signed by the Mayor on June 9, 1988, it was assigned Act No. 7-190 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1801.

**Delegation of Authority.** — Delegation of authority under D.C. Law 7-176, the Dangerous Dog Amendment Act of 1988, see Mayor’s Order 90-83, June 4, 1990.

Delegation of authority under D.C. Law 7-176, the “Dangerous Dog Amendment Act of 1988,” see Mayor’s Order 2000-98, June 14, 2000 (47 DCR 5277).

pursuant to D.C. Law 7-176, the Dangerous Dog Amendment Act of 1988, see Mayor’s Order 2009-40, March 23, 2009 (56 DCR 6777).

## § 8-1902. Determination of a potentially dangerous or dangerous dog.

(a) The Mayor is authorized to conduct an investigation and make a determination as to whether a dog is a potentially dangerous or dangerous dog. In determining whether a dog is a potentially dangerous or dangerous dog, the Mayor shall consider all evidence obtained or presented to the Mayor relevant to the issue of whether the dog’s behavior was the result of provocation or otherwise justified under the circumstances.

(b)(1) A dog shall not be determined to be a potentially dangerous or dangerous dog if the dog injured:

(A) A person who, at the time of injury, was committing a willful trespass upon the premises lawfully occupied by the owner;

(B) A person who, at the time of injury, was provoking, tormenting, abusing, or assaulting the dog or has repeatedly, in the past, provoked, tormented, abused, or assaulted the dog;

(C) A person or domestic animal because, at the time of injury, the dog was responding to injury, or was protecting itself or its offspring; or

(D) A person or domestic animal because, at the time of injury, the dog was protecting or defending a human being within the immediate vicinity of the dog from an attack or assault.

(2) The burden of proof on establishing that the dog falls into one of the categories described in paragraph (1) of this subsection is on the owner.

(c) The Mayor shall provide notice of the determination to the owner by personal service, posting, or prepaid mail. The owner may contest the determination and request a hearing by filing a written appeal within 15 business days of the date the notice of determination is served, posted, or mailed. The Mayor shall provide reasonable notice of the hearing to the owner.

(d)(1) If the Mayor has probable cause to believe a dog is a potentially dangerous or dangerous dog and may pose a threat to public safety, the Mayor,

after providing notice to the owner of the probable cause determination, may obtain a search warrant pursuant to Rule 204 of the Superior Court of the District of Columbia Rules of Civil Procedure and impound the dog pending final disposition of the case.

(2) The owner shall be liable to the District for the costs and expenses of the impoundment of the dog unless the dog is determined to be neither a potentially dangerous or dangerous dog. If a dog is determined to be a potentially dangerous or dangerous dog, the owner, prior to reclaiming the dog in accordance with § 8-1903, shall reimburse the animal control agency its costs and expenses for the care of the dogs while in the animal control agency's custody plus any reasonable veterinary fees incurred for the dog during the period of impoundment. An owner's failure to pay the costs and expenses within 5 days of a final determination shall result in ownership of the dog reverting to the animal control agency.

(e)(1) The hearing shall be held not less than 5, and not more than 10 days, excluding holidays, Saturdays, and Sundays, after service of notice of the hearing upon the owner. The hearing shall be open to the public. The owner shall have the opportunity to present evidence as to why the dog should not be declared a potentially dangerous or dangerous dog, including evidence of provocation or justification pursuant to subsection (b) of this section, or not be determined to pose a threat to public safety if returned to its owner. The Mayor may decide all issues for or against the owner regardless of whether the owner appears at the hearing.

(f) Within 5 days after the hearing, the Mayor shall notify the owner in writing of the determination of the hearing officer.

(g)(1) Within 5 days of the issuance of an order by the hearing officer determining that the dog is a potentially dangerous or dangerous dog, the owner may bring a petition in the Superior Court of the District of Columbia seeking review of the determination.

(2) A court order vacating the determination shall not prevent the Mayor from later determining that the dog is a potentially dangerous or dangerous dog or poses a threat to public safety, based upon the dog's subsequent behavior.

(Oct. 18, 1988, D.C. Law 7-176, § 3, 35 DCR 4787; Dec. 5, 2008, D.C. Law 17-281, § 105(b), 55 DCR 9186; Sept. 26, 2012, D.C. Law 19-171, § 66, 59 DCR 6190.)

**Section references.** — This section is referenced in § 8-1901 and § 8-1903.

**Prior Codifications.** — 1981 Ed., § 6-1021.2.

**Effect of amendments.** — D.C. Law 17-281 rewrote the section.

The 2012 amendment by D.C. Law 19-171 substituted "subsection (b) of this section" for "§ 8-1902(b)" in (e)(1).

**Emergency legislation.** — For temporary amendment of section, see § 2(b) of the Pit Bull and Rottweiler Dangerous Dog Designation

Emergency Amendment Act of 1996 (D.C. Act 11-257, April 16, 1996, 43 DCR 2156).

For temporary amendment of section, see § 3(b) of the Dangerous Dog Designation Emergency Amendment Act of 1996 (D.C. Act 11-351, August 12, 1996, 43 DCR 4553).

For temporary addition of a § 6-1021.2a, see § 2(c) of the Pit Bull and Rottweiler Dangerous Dog Designation Emergency Amendment Act of 1996 (D.C. Act 11-257, April 16, 1996, 43 DCR 2156).

For temporary addition of a § 6-1021.2a, see



§ 3(c) of the Dangerous Dog Designation Emergency Amendment Act of 1996 (D.C. Act 11-351, August 12, 1996, 43 DCR 4553).

**Legislative history of Law 7-176.** — For legislative history of D.C. Law 7-176, see Historical and Statutory Notes following § 8-1901.

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1801.

**Legislative history of Law 19-171.** — Law

19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

## CASE NOTES

### Duty of care.

Although commercial landlord had notice of presence and aggressive behavior of tenant’s pit bulls, landlord had no legal authority to control presence of dogs, given that lease did not contain a “no pets” clause, and thus, landlord breached no duty and was not responsible for injuries sustained by minor worker, who went to tenant’s tattoo parlor to ask tenant for job and was offered job cleaning up waste of

tenant’s dogs and was subsequently injured by tenant’s dogs; landlord was not harbinger of his tenant’s dogs simply by virtue of being a landlord, and even if landlord was considered to be harbinger of tenant’s dogs, nothing in statutory scheme imposed liability on owner or harbinger in absence of an administrative determination that dog was dangerous. *Campbell v. Noble*, 962 A.2d 264, 2008 D.C. App. LEXIS 487 (2008).

## § 8-1903. Consequences of a dangerous or potentially dangerous dog determination.

(a) If the Mayor determines that a dog is a potentially dangerous or dangerous dog, the owner shall comply with the requirements of §§ 8-1904 and 8-1905 and any other special security or care requirements the Mayor may establish.

(b) If a potentially dangerous or dangerous dog has been impounded and determined to pose a threat to public safety, the Mayor may only return the dog to its owner if the owner has:

(1) Met the registration requirements of § 8-1904;

(2) Agreed to comply with the requirements of § 8-1905, where necessary; and

(3) Met or agreed to comply with any additional security or care requirements established by the Mayor.

(c) The Mayor may humanely destroy a dog if:

(1) The dog has been determined to be a threat to public safety if it is returned to the owner;

(2) The owner fails to comply with the registration requirements of § 8-1904, the requirements of § 8-1905, or any special security or care requirements established by the Mayor;

(3) The owner fails to reimburse the animal control agency for the costs and expenses of the dog’s impoundment as required by § 8-1902(d)(2); or

(4) The owner forfeits the dog for humane destruction.

(Oct. 18, 1988, D.C. Law 7-176, § 4, 35 DCR 4787; Dec. 5, 2008, D.C. Law 17-281, § 105(c), 55 DCR 9186.)

**Section references.** — This section is referenced in § 8-1902 and § 8-1905.

**Prior Codifications.** — 1981 Ed., § 6-1021.3.

**Effect of amendments.** — D.C. Law 17-281 rewrote the section which had read as follows: “If a determination is made that a dog is a dangerous dog under § 8-1902, the owner shall comply with the provisions of §§ 8-1904 and 8-1905 and any other special security or care requirements established by the Mayor, and in accordance with a time schedule established by the Mayor. A dangerous dog determined to constitute a significant threat to the public health and safety if returned to its owner may be humanely destroyed.”

**Emergency legislation.** — For temporary

amendment of section, see § 2(d) of the Pit Bull and Rottweiler Dangerous Dog Designation Emergency Amendment Act of 1996 (D.C. Act 11-257, April 16, 1996, 43 DCR 2156).

For temporary amendment of section, see § 3(d) of the Dangerous Dog Designation Emergency Amendment Act of 1996 (D.C. Act 11-351, August 12, 1996, 43 DCR 4553).

**Legislative history of Law 7-176.** — For legislative history of D.C. Law 7-176, see Historical and Statutory Notes following § 8-1901.

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1801.

## § 8-1904. Dangerous dog and potentially dangerous dog registration requirements.

(a) The Mayor shall issue a certificate of registration to the owner of a potentially dangerous dog if the owner establishes to the satisfaction of the Mayor that:

- (1) The owner of the potentially dangerous dog is 18 years of age or older;
- (2) A valid license has been issued for the potentially dangerous dog pursuant to District law;
- (3) The potentially dangerous dog has current vaccinations;
- (4) The owner has a proper enclosure, as determined by the Mayor, to confine the potentially dangerous dog;
- (5) The owner has paid an annual fee in an amount to be determined by the Mayor, in addition to regular dog licensing fees, to register the potentially dangerous dog;
- (6) The potentially dangerous dog has been spayed or neutered;
- (7) The potentially dangerous dog has been implanted with a microchip containing owner identification information; and
- (8) The owner has written permission of the property owner, if the dog owner is not the property owner, and from a homeowner’s association, if appropriate, to house the dog on the premises where the dog will be kept.

(b) The Mayor shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to satisfying the requirements for registration of a potentially dangerous dog pursuant to subsection (a) of this section, establishes to the satisfaction of the Mayor that the owner of the dangerous dog has posted on the premises a clearly visible, printed warning sign, in type that is readable from not less than 50 feet, that there is a dangerous dog on the property, and that includes a conspicuous warning symbol that informs children of the presence of a dangerous dog.

(Oct. 18, 1988, D.C. Law 7-176, § 5, 35 DCR 4787; Dec. 5, 2008, D.C. Law 17-281, § 105(d), 55 DCR 9186.)

**Section references.** — This section is referenced in § 8-1903, § 8-1905, and § 8-1906.

**Prior Codifications.** — 1981 Ed., § 6-1021.4.

**Effect of amendments.** — D.C. Law 17-281 rewrote the section.

**Emergency legislation.** — For temporary addition of a § 6-1021.4a, see § 2(e) of the Pit Bull and Rottweiler Dangerous Dog Designation Emergency Amendment Act of 1996 (D.C. Act 11-257, April 16, 1996, 43 DCR 2156).

For temporary amendment of section, see

§ 3(e) of the Dangerous Dog Designation Emergency Amendment Act of 1996 (D.C. Act 11-351, August 12, 1996, 43 DCR 4553).

For temporary addition of a § 6-1024.4a 1981 Ed., see § 3(f) of the Dangerous Dog Designation Emergency Amendment Act of 1996 (D.C. Act 11-351, August 12, 1996, 43 DCR 4553).

**Legislative history of Law 7-176.** — For legislative history of D.C. Law 7-176, see Historical and Statutory Notes following § 8-1901.

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1801.

## § 8-1905. Dangerous dog and potentially dangerous dog owner responsibilities.

It shall be unlawful to:

(1) Keep a potentially dangerous or dangerous dog without a valid certificate of registration issued under § 8-1904;

(2) Permit a potentially dangerous dog to be outside a proper enclosure unless the potentially dangerous dog is under the control of a responsible person and restrained by a chain or leash, not exceeding 4 feet in length;

(3) Fail to maintain a dangerous dog exclusively on the owner's property except for medical treatment or examination. When removed from the owner's property for medical treatment or examination, the dangerous dog shall be caged or under the control of a responsible person and muzzled and restrained with a chain or leash, not exceeding 4 feet in length. The muzzle shall be made in a manner that will not cause injury to the dangerous dog or interfere with its vision or respiration, but shall prevent it from biting any human being or animal;

(4) Fail to notify the Mayor within 24 hours if a potentially dangerous or dangerous dog is on the loose, is unconfined, has attacked another domestic animal, has attacked a human being, has died, has been sold, or has been given away. If the potentially dangerous or dangerous dog has been sold or given away, the owner shall also provide the Mayor with the name, address, and telephone number of the new owner of the potentially dangerous or dangerous dog;

(5) Fail to surrender a potentially dangerous or dangerous dog to the Mayor for safe confinement pending disposition of the case when there is a reason to believe that the potentially dangerous or dangerous dog poses a threat to public safety;

(6) Fail to comply with any special security or care requirements for a potentially dangerous or dangerous dog the Mayor may establish pursuant to § 8-1903; or

(7) Remove a dangerous dog from the District without written permission from the Mayor.

(Oct. 18, 1988, D.C. Law 7-176, § 6, 35 DCR 4787; Dec. 5, 2008, D.C. Law 17-281, § 105(e), 55 DCR 9186.)

**Section references.** — This section is referenced in § 8-1903 and § 8-1906.

**Prior Codifications.** — 1981 Ed., § 6-1021.5.



**Effect of amendments.** — D.C. Law 17-281 rewrote the section.

**Legislative history of Law 7-176.** — For legislative history of D.C. Law 7-176, see Historical and Statutory Notes following § 8-1901.

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1801.

### CASE NOTES

**In general.**

At common law, owner of dog was not liable for personal injuries inflicted by animal unless

he should have known of dog's vicious propensities. *Wells v. Wynn*, 311 A.2d 829, 1973 D.C. App. LEXIS 399 (1973).

## § 8-1906. Penalties.

(a) An owner of a dangerous or potentially dangerous dog who violates the provisions of § 8-1904 or § 8-1905 shall, upon conviction, be guilty of a misdemeanor and be subject to a fine not to exceed \$500, imprisonment not to exceed 90 days, or both for a first offense, and a fine not to exceed \$1,000, imprisonment not to exceed 90 days, or both for a second or subsequent offense. Prosecutions for violations of § 8-1904 or § 8-1905 pursuant to this subsection shall be brought in the name of the District of Columbia in the Superior Court of the District of Columbia by the Office of the Attorney General for the District of Columbia.

(b) An owner of a potentially dangerous or dangerous dog that causes serious injury to or kills a human being or a domestic animal without provocation shall be fined up to \$10,000.

(c) A violation of this chapter shall be a civil infraction for purposes of Chapter 18 of Title 2. Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this chapter, or the rules issued under authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infractions shall be pursuant to Chapter 18 of Title 2.

(d) The fines set forth in this section shall not be limited by § 22-3571.01.

(Oct. 18, 1988, D.C. Law 7-176, § 7 (a)-(c), 35 DCR 4787; Dec. 5, 2008, D.C. Law 17-281, § 105(f), 55 DCR 9186; June 11, 2013, D.C. Law 19-317, § 113(b), 60 DCR 2064.)

**Prior Codifications.** — 1981 Ed., § 6-1021.6.

**Effect of amendments.** — D.C. Law 17-281 rewrote subsec. (a); and, in subsec. (b), substituted "potentially dangerous or dangerous dog" for "dangerous dog". Prior to amendment, subsec. (a) read as follows: "(a) An owner of a dangerous dog who violates the provisions of §§ 8-1904 and 8-1905 shall be fined up to \$300 for the first offense and up to \$500 for each subsequent offense."

The 2013 amendment by D.C. Law 19-317 added (d).

**Emergency legislation.** — For temporary amendment of section, see § 2(f) of the Pit Bull and Rottweiler Dangerous Dog Designation Emergency Amendment Act of 1996 (D.C. Act 11-257, April 16, 1996, 43 DCR 2156).

For temporary amendment of section, see § 3(g) of the Dangerous Dog Designation Emergency Amendment Act of 1996 (D.C. Act 11-351, August 12, 1996, 43 DCR 4553).

**Legislative history of Law 7-176.** — For legislative history of D.C. Law 7-176, see Historical and Statutory Notes following § 8-1901.

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1801.

**Legislative history of Law 19-317.** — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to

Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

**Editor's notes.** — Applicability of D.C. Law

19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

### CASE NOTES

#### ANALYSIS

Arguments and conduct of counsel.  
Dangerous dogs.  
Elements of offense.  
Validity.

#### Arguments and conduct of counsel.

Prosecution's comment in closing argument that defendant intentionally released pit bulls did not prejudice defendant in trial for violation of the Pit Bull and Rottweiler Dangerous Dog Designation Emergency Amendment Act; violation of the Act was a strict liability offense, and thus, the issue of fault had no bearing on the case. *McNeely v. United States*, 874 A.2d 371, 2005 D.C. App. LEXIS 254 (2005).

Assuming comment by prosecutor in closing argument that defendant negligently released his pit bulls was unfounded, the trial court's failure to sua sponte strike the comment did not result in a miscarriage of justice in defendant's trial for violating the Pit Bull and Rottweiler Dangerous Dog Designation Emergency Amendment Act, where the brief reference to defendant's negligence was not emphasized as a primary argument nor urged as a legal theory of the case. *McNeely v. United States*, 874 A.2d 371, 2005 D.C. App. LEXIS 254 (2005).

#### Dangerous dogs.

Although commercial landlord had notice of presence and aggressive behavior of tenant's pit bulls, landlord had no legal authority to control presence of dogs, given that lease did not contain a "no pets" clause, and thus, landlord breached no duty and was not responsible for injuries sustained by minor worker, who went to tenant's tattoo parlor to ask tenant for job and was offered job cleaning up waste of tenant's dogs and was subsequently injured by tenant's dogs; landlord was not harbinger of his tenant's dogs simply by virtue of being a landlord, and even if landlord was considered to be harbinger of tenant's dogs, nothing in statutory scheme imposed liability on owner or harbinger in absence of an administrative determination that dog was dangerous. *Campbell v. Noble*, 962 A.2d 264, 2008 D.C. App. LEXIS 487 (2008).

The temperament of pit bulls, particularly their volatile capacity for hostility and violent behavior, is sufficiently well-known that these dogs are proper subjects of regulatory measures adopted in the exercise of a state's police power. *McNeely v. United States*, 874 A.2d 371, 2005 D.C. App. LEXIS 254 (2005).

#### Elements of offense.

Although the Pit Bull and Rottweiler Dangerous Dog Designation Emergency Amendment Act, which imposed penalties on pit bull owners whose dogs attacked individuals, was a strict liability offense and did not specify a mens rea requirement, defendant was required to know that he or she owned a pit bull in order to be convicted under the Act; conviction under the Act did not require a finding of culpable intent on the part of defendant. *McNeely v. United States*, 874 A.2d 371, 2005 D.C. App. LEXIS 254 (2005).

#### Validity.

Although the usual legislative grace period for acts to take effect was reduced by half for the Pit Bull and Rottweiler Dangerous Dog Designation Emergency Amendment Act, defendant had fair warning of the conduct proscribed by the Act for purposes of the due process clause of the Fifth and Fourteenth Amendments, where the Act had been in effect for almost four weeks before its sanctions fell on defendant. *McNeely v. United States*, 874 A.2d 371, 2005 D.C. App. LEXIS 254 (2005).

The Pit Bull and Rottweiler Dangerous Dog Designation Emergency Amendment Act, which imposed penalties on owners of pit bulls that caused injury to humans without provocation, did not deprive defendant of a fair warning of the proscribed conduct so as to violate the due process clause of the Fifth and Fourteenth Amendments, where the Act criminalized a very narrow range of conduct that was easily understood by focusing on two particular dog breeds, unprovoked attacks, and injury in fact. *McNeely v. United States*, 874 A.2d 371, 2005 D.C. App. LEXIS 254 (2005).

## § 8-1907. Annual dangerous dog licensing drive; educational program.

(a) The Mayor shall conduct an annual dangerous dog licensing drive in order to ensure compliance with the provisions of this chapter.

(b) Within 180 days of October 18, 1988, the Mayor shall implement an educational campaign for the public on provisions of this chapter and existing laws concerning animal control.

(Oct. 18, 1988, D.C. Law 7-176, § 8, 35 DCR 4787.)

**Prior Codifications.** — 1981 Ed., § 6-1021.7. legislative history of D.C. Law 7-176, see Historical and Statutory Notes following § 8-1901.

**Legislative history of Law 7-176.** — For

## § 8-1908. Rules.

The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement the provisions of this chapter.

(Oct. 18, 1988, D.C. Law 7-176, § 10, 35 DCR 4787.)

**Prior Codifications.** — 1981 Ed., § 6-1021.8. legislative history of D.C. Law 7-176, see Historical and Statutory Notes following § 8-1901.

**Legislative history of Law 7-176.** — For



## CHAPTER 20. HORSE-DRAWN CARRIAGES.

Sec.

8-2001. Definitions.

8-2002. Horse-drawn carriage trade regulation.

8-2003. Examination of horses.

8-2004. Identification card.

8-2005. Care and use of horses in horse-drawn carriage trade.

8-2006. Carriage and equipment.

Sec.

8-2007. Weather conditions.

8-2008. Stables.

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8-2010. Sick or injured horses.

8-2011. Maintenance of records.

8-2012. Penalties.

8-2013. Rules.

**§ 8-2001. Definitions.**

For the purposes of this chapter, the term:

(1) “Animal control officer” means any employee or legally authorized agent of the District of Columbia (“District”) Animal Care and Control Agency as provided in § 8-1802.

(2) “Carriage” means a device by which a person is transported or in which a person rides, for hire, and that is designed to be pulled or drawn by a horse in the horse-drawn carriage trade. The term “carriage” includes a wagon, cart, vehicle, or similar transportation device.

(3) “Custodian” means a person who has the immediate possession, bailment, custody, use, or control of a horse. For the purposes of this chapter, the term “custodian” includes a driver.

(4) “Drive” means the process of operating, transporting, driving, pulling, or hauling a horse-drawn carriage.

(5) “Driver” means a person licensed to drive, steer, transport, or operate a carriage or horse used in the horse-drawn carriage trade.

(6) “Driver’s license” means a valid document issued by the Mayor to operate a motor vehicle.

(7) “Horse” means a large solid-hoofed herbivorous domesticated mammal or similar animal that belongs to the *Equus caballus* family and weighs at least 1,100 pounds, and that is used for the purpose of driving, pulling, or hauling a carriage, or for the purposes of a performance. For the purposes of this chapter, the term “horse” shall not include any animal owned by the District government or the United States government that is used solely for law enforcement purposes, or any animal in the custody of the National Zoological Park.

(8) “Horse-drawn carriage trade” means a person or business that operates an enterprise, for hire, or as a contractual service, for the purpose of conveying persons or goods through the use of a horse to pull or haul a wagon, cart, carriage, vehicle, or similar device along the streets and byways in the District. The term “horse-drawn carriage trade” shall not include the use of a horse in a parade or in a funeral for which a permit is issued.

(9) “Identification card” means a document devised, supplied, and certified by the Mayor of the District, and signed and dated by a licensed veterinarian which shall include:

(A) The date of the last physical examination of the horse;

(B) A description of the horse, including sex, age, height, color, markings, and any other information that may facilitate identification of the horse;

- (C) The stamina and physical condition of the horse;
- (D) Any condition that might restrict or affect the use or movement of the horse;
- (E) A photograph of the horse;
- (F) An identification number;
- (G) The name, address, and telephone number of the establishment where the horse is stabled; and
- (H) The name, address, and telephone number of the owner of the horse.

(10) "License" means a valid permit or other document issued by the Mayor to a person or business for the purpose of operating a horse-drawn carriage trade enterprise.

(11) "Licensed veterinarian" means a person who is licensed to practice veterinary medicine.

(12) "Operator" means the proprietor or the agent of a proprietor of a horse-drawn carriage trade enterprise or a stable.

(13) "Owner" means a person who is vested with the ownership, control, or title of a horse-drawn carriage trade, horse, or stable.

(14) "Person" means an individual, firm, partnership, association, or group or combination acting in concert, whether as a principal, employer, employee, agent, servant, trustee, fiduciary, receiver, or any other type of legal or personal representative.

(15) "Police officer" means a sworn member of the Metropolitan Police Department.

(16) "Stable" means a barn, establishment, or similar appropriate facility where a horse is permanently or temporarily boarded, housed, or maintained.

(Mar. 7, 1991, D.C. Law 8-224, § 2, 38 DCR 207; Dec. 5, 2008, D.C. Law 17-281, § 106, 55 DCR 9186.)

**Section references.** — This section is referenced in § 8-2004.

**Prior Codifications.** — 1981 Ed., § 6-1031.

**Effect of amendments.** — D.C. Law 17-281, in par. (1), substituted "Animal Care and Control Agency" for "Animal Control Agency".

**Legislative history of Law 8-224.** — Law 8-224, the "Regulation of the Horse-Drawn Carriage Trade Act of 1990," was introduced in Council and assigned Bill No. 8-204, which was

referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-307 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 17-281.** — For Law 17-281, see notes following § 8-1801.

## § 8-2002. Horse-drawn carriage trade regulation.

(a) It shall be unlawful to operate a horse-drawn carriage trade in the District without a license and an identification card issued by the Mayor.

(b) Upon application on a form devised by the Mayor and the payment of a fee not to exceed \$100, a person may be issued a license to operate a horse-drawn carriage trade in the District.

(c) Upon application on a form devised by the Mayor and the payment of a fee not to exceed \$30, an owner, operator, or custodian may be issued an

identification card for each horse used in the operation of a horse-drawn carriage trade in the District.

(d) No person shall drive or otherwise operate a carriage engaged in the horse-drawn carriage trade unless he or she:

(1) Is 18 years of age;

(2) Has received at least 35 hours of training in the operation of a horse-drawn carriage as provided and certified in writing by the owner or operator of a horse-drawn carriage trade, 15 hours of which shall include an apprenticeship under the supervision of a licensed horse-drawn carriage driver;

(3) Presents a statement from a licensed physician that certifies that he or she is in good physical condition and is free of visual impairment not corrected by eyeglasses or contact lenses, epilepsy, vertigo, or other medical disabilities which may substantially impair his or her ability to operate a horse-drawn carriage or to control a horse; and

(4) Has completed a written examination devised by the Mayor which shall include, but shall not be limited to:

(A) Knowledge of the traffic laws and regulations, including passage of the written portion of the driver's license test;

(B) Proper equine grooming, care, equipment, nutrition, and first aid; and

(C) Operation of a horse-drawn carriage.

(e) No person shall drive or operate a horse-drawn carriage on any public street or byway in the District:

(1) Between the hours of 5:00 a.m. and 10:00 a.m., on Monday through Friday, excluding legal holidays;

(2) Between the hours of 4:00 p.m. and 6:30 p.m., on Monday through Friday, excluding legal holidays, provided however, that this restriction shall not apply to the area bounded by 15th Street, N.W., on the West, Jefferson Drive, N.W., on the South, 1st Street, N.W., on the East, and Madison Drive, N.W., on the North;

(3) Between the hours of 1:30 a.m. and 5:00 a.m. on any day; and

(4) On any day or at any time that the Chief of the Metropolitan Police Department makes a specific determination that the horse-drawn carriage trade would be inconsistent with other special events or public safety requirements.

(f) The driver of a horse-drawn carriage shall:

(1) Possess and display at all times his or her license to operate a horse-drawn carriage in the front and passenger compartments of the carriage;

(2) Possess a valid identification card issued by the Mayor;

(3) Obey and observe all traffic laws;

(4) Not smoke, eat, drink, or wear headphones while the carriage is in motion;

(5) Not drive the carriage at a speed that exceeds a walk, except as necessary to cross a traffic intersection or to refrain from impeding traffic;

(6) Leave the horse-drawn carriage unattended at any time;

(7) Not drive the carriage at any time when a passenger is standing in the carriage or not seated securely inside of the carriage;



(8) Maintain both hands on the reins and be seated at all times the carriage is in motion; and

(9) Provide humane care and treatment of the horse under his or her direct supervision and control at all times.

(g) Any license issued pursuant to this section shall be issued as an Inspected Sales and Services endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(Mar. 7, 1991, D.C. Law 8-224, § 3, 38 DCR 207; Apr. 20, 1999, D.C. Law 12-261, § 2003(j), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(o), 50 DCR 6913; Sept. 26, 2012, D.C. Law 19-169, § 19, 59 DCR 5567.)

**Prior Codifications.** — 1981 Ed., § 6-1032.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (g), substituted “an Inspected Sales and Services endorsement to a basic business license under the basic” for “a Class A Inspected Sales and Services endorsement to a master business license under the master”.

The 2012 amendment by D.C. Law 19-169 substituted “visual impairment” for “defective vision” in (d)(3).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(ooo) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 8-224.** — For legislative history of D.C. Law 8-224, see Historical and Statutory Notes following § 8-2001.

**Legislative history of Law 12-261.** — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole.

The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 8-111.03.

**Legislative history of Law 19-169.** — Law 19-169, the “People First Respectful Language Modernization Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

**Editor’s notes.** — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

## § 8-2003. Examination of horses.

(a) The owner, operator, or custodian of each horse engaged in the horse-drawn carriage trade shall have the horse examined by a licensed veterinarian at intervals of not more than 12 months.

(b) The examinations shall include, but not be limited to, the following:

- (1) The general physical condition of the horse;
- (2) An inspection of the eyes, teeth, legs, hooves, shoes, and cardiovascular system of the horse;
- (3) The stamina and physical ability of the horse to engage in the horse-drawn carriage trade;
- (4) An inspection for a recurrence of prior injuries; and
- (5) An inspection for disease or other deficiencies.

(c) The examination shall include a certification from the licensed veterinarian that the horse is physically fit to engage in the horse-drawn carriage trade and is free of any disease or internal parasites. The certification shall be entered on the identification card provided for in § 8-2005 [§ 8-2004].

(Mar. 7, 1991, D.C. Law 8-224, § 4, 38 DCR 207; Feb. 5, 1994, D.C. Law 10-68, § 16(a), 40 DCR 6311.)

**Prior Codifications.** — 1981 Ed., § 6-1033.

**Legislative history of Law 8-224.** — For legislative history of D.C. Law 8-224, see Historical and Statutory Notes following § 8-2001.

**Legislative history of Law 10-68.** — D.C. Law 10-68, the “Technical Amendments Act of 1993,” was introduced in Council and assigned Bill No. 10-166, which was referred to the

Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

## § 8-2004. Identification card.

(a) The owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall have available for immediate inspection by the Mayor or his or her designee, a police officer, or an animal control officer at all times when a horse is on any street or public byway in the District, an identification card as defined in § 8-2001(9).

(b) In an instance where the owner rents, hires, or places the horse in the care or custody of another person, he or she shall provide that person with the identification card required by subsection (a) of this section.

(c) The Mayor shall certify the identification card following an examination of the horse by a licensed veterinarian.

(Mar. 7, 1991, D.C. Law 8-224, § 5, 38 DCR 207.)

**Prior Codifications.** — 1981 Ed., § 6-1034.

**Legislative history of Law 8-224.** — For

legislative history of D.C. Law 8-224, see Historical and Statutory Notes following § 8-2001.

## § 8-2005. Care and use of horses in horse-drawn carriage trade.

(a) An owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall:

(1) Not use, work, drive, ride, or require labor from a horse for more than 8 hours in any 24-hour period;

(2) Provide for adequate rest periods for a horse during the 8 hours of use;

(3) Provide the horse with food and drinking water from a clean container of sufficient size and in good condition during the regular intervals during the 8 hours of use;

(4) Drape the body of the horse from forelegs to hind legs with a warm covering during times of cold or inclement weather;

(5) Park the horse in an area of shade whenever practicable during rest periods;

(6) Not overdrive or overload a horse as evidenced by physical stress, strain, or exhaustion of the horse; and

(7) Not beat or prod a horse to maintain a fast gait in any way that will cause pain or injury to the horse.

(b) An owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall not use a horse to draw a carriage unless:

- (1) The horse is in good health in accordance with standards established by the Mayor by rule;
- (2) The horse weighs at least 1,100 pounds; and
- (3) The hooves of the horse are properly shod and trimmed utilizing rubber compound shoes on the front 2 hooves and either rubber or open steel borium cork tip shoes on the 2 rear hooves.

(Mar. 7, 1991, D.C. Law 8-224, § 6, 38 DCR 207; Feb. 5, 1994, D.C. Law 10-68, § 16(b), 40 DCR 6311.)

**Section references.** — This section is referenced in § 8-2003.

**Prior Codifications.** — 1981 Ed., § 6-1035.

**Legislative history of Law 8-224.** — For legislative history of D.C. Law 8-224, see Historical and Statutory Notes following § 8-2001.

**Legislative history of Law 10-68.** — For legislative history of D.C. Law 10-68, see Historical and Statutory Notes following § 8-2003.

## § 8-2006. Carriage and equipment.

(a) An owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall:

- (1) Provide that the carriage used is in good operating condition, the axles are well-greased, and that all operating mechanisms are in good working order;
- (2) Provide that the carriage is equipped with hydraulic brakes in good working condition and set in a locked position when the carriage is not in motion;
- (3) Provide that the saddle, harness, shoes, bridle, and any other equipment for the horse fits properly, is in good working condition, and shall not cause injury or pain to the horse;
- (4) Not use curb bits, twisted wire, twisted wire snaffles, spurs, bucking straps, flank straps, or similar devices;
- (5) Inspect daily, all horses and all equipment at the time of departure from and return to the stable; and
- (6) Provide that all horses are equipped with a diaper that is constructed of a sturdy material and is properly fitted to the horse to ensure comfort.

(b) No carriage engaged in the horse-drawn carriage trade shall be driven or operated on a public street or byway of the District unless the owner or operator of the carriage has obtained a valid registration and metal license plate issued by the Mayor pursuant to a procedure and fees established by the Mayor by rule.

(c) A carriage used in the horse-drawn carriage trade shall:

- (1) Have conspicuously displayed on the rear of the carriage at all times a valid license plate provided for in subsection (b) of this section;
- (2) Be equipped with a slow-moving vehicle emblem to be attached to the rear of the carriage;
- (3) Be maintained in a safe and sanitary condition;
- (4) Not drive or transport more than 6 passengers at 1 time, excluding the driver or operator of the carriage;
- (5) Not drive or transport any person when a person other than a



licensed-driver or an apprenticed-driver is seated in the driver's seat of the carriage; and

(6) Not have any legend, slogan, logo, or other exterior sign on the carriage, other than its legal license plates and the name and telephone number of the horse-drawn carriage in letters not to exceed 3 inches in height.

(d) The Mayor may, by rule, establish additional inspection requirements for a carriage and other equipment used in the horse-drawn carriage trade.

(Mar. 7, 1991, D.C. Law 8-224, § 7, 38 DCR 207.)

**Prior Codifications.** — 1981 Ed., § 6-1036. legislative history of D.C. Law 8-224, see Historical and Statutory Notes following § 8-2001.  
**Legislative history of Law 8-224.** — For

## § 8-2007. Weather conditions.

(a) An owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall not drive, use, or work a horse on a public street or byway in the District:

(1) During periods when the temperature exceeds 89 degrees Fahrenheit, as determined and announced by the National Weather Service;

(2) During periods when the temperature is below 25 degrees Fahrenheit, as determined and announced by the National Weather Service;

(3) During periods when it is snowing; or

(4) During other periods determined by the Mayor by rule as being dangerous or unsuitable.

(b) A horse in use at the time described in subsection (a)(1), (2), or (3) of this section, shall be immediately returned by its owner, operator, or custodian by the most direct route to a stable.

(Mar. 7, 1991, D.C. Law 8-224, § 8, 38 DCR 207.)

**Prior Codifications.** — 1981 Ed., § 6-1037. legislative history of D.C. Law 8-224, see Historical and Statutory Notes following § 8-2001.  
**Legislative history of Law 8-224.** — For

## § 8-2008. Stables.

(a) The owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall house, quarter, or maintain a horse in a lighted, clean, dry, and properly ventilated stable in which the horse shall be able to turn around easily in a stall.

(b) The owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall clean the stall in which a horse is housed, quartered, or maintained daily and shall provide sufficient bedding of straw, shavings, or other suitable hygienic material that shall be changed as often as necessary to maintain it in a clean and dry condition.

(c) The owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall provide the stall in which the horse is housed, quartered, or maintained with clean, fresh water and with an adequate and substantial daily supply of hay and grain that is free from contamination and mold to meet

the normal daily feeding requirements for the condition, size, and work schedule of the horse.

(d) The owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall provide each stall with a clean block of salt at all times and with blankets for the horse during cold weather periods as necessary.

(e) The full name, current business address, and business and home telephone numbers of the owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade, and the owner or operator of the stable, shall be legibly stenciled and conspicuously displayed, in at least 2-inch lettering, on the exterior of the stable entrance for emergency purposes.

(Mar. 7, 1991, D.C. Law 8-224, § 9, 38 DCR 207.)

**Prior Codifications.** — 1981 Ed., § 6-1038. legislative history of D.C. Law 8-224, see Historical and Statutory Notes following § 8-2001.  
**Legislative history of Law 8-224.** — For

## § 8-2009. Loading.

All horses shall be loaded or unloaded for transport in horse loading zones as designated by the Mayor.

(Mar. 7, 1991, D.C. Law 8-224, § 10, 38 DCR 207.)

**Prior Codifications.** — 1981 Ed., § 6-1039. legislative history of D.C. Law 8-224, see Historical and Statutory Notes following § 8-2001.  
**Legislative history of Law 8-224.** — For

## § 8-2010. Sick or injured horses.

(a) The owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade that is in pain, sick, diseased, lame, or injured shall take action to obtain immediate veterinary treatment, care, and attention for the horse.

(b) An injured, sick, diseased, or lame horse shall not be sold or otherwise disposed of except in a humane manner.

(c) No person shall drive, use, or work an injured, sick, diseased, or lame horse in the horse-drawn carriage trade.

(Mar. 7, 1991, D.C. Law 8-224, § 11, 38 DCR 207.)

**Prior Codifications.** — 1981 Ed., § 6-1040. legislative history of D.C. Law 8-224, see Historical and Statutory Notes following § 8-2001.  
**Legislative history of Law 8-224.** — For

## § 8-2011. Maintenance of records.

(a) The owner or operator of a horse-drawn carriage trade shall maintain or require his or her driver to maintain a daily record of travel for each carriage used, which shall include:

- (1) The name of the driver;
- (2) The driver's license number;
- (3) The horse-drawn carriage trade license number;
- (4) The identification card number of the horse that hauls or pulls the carriage;
- (5) The date;

- (6) The hours of operation;
  - (7) The specific location, time, and number of passengers for each ride in the carriage;
  - (8) The rest, water, and feeding times for the horse; and
  - (9) A description of any and all traffic accidents.
- (b) The owner or operator of a horse-drawn carriage trade shall maintain a complete log of all records at his or her place of business.

(Mar. 7, 1991, D.C. Law 8-224, § 12, 38 DCR 207.)

**Prior Codifications.** — 1981 Ed., § 6-1041. legislative history of D.C. Law 8-224, see Historical and Statutory Notes following § 8-2001.  
**Legislative history of Law 8-224.** — For

## § 8-2012. Penalties.

- (a) A person who violates any provision of this chapter shall be fined up to \$300 for the 1st offense and up to \$500 for each subsequent offense.
- (b) Any owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade who causes serious intentional injury to the horse by neglect or inhumane treatment shall be fined up to \$2,500.
- (c) A violation of this chapter shall be a civil infraction for purposes of Chapter 18 of Title 2. Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this chapter, or the rules issued under authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction shall be pursuant to Chapter 18 of Title 2.

(Mar. 7, 1991, D.C. Law 8-224, § 13, 38 DCR 207; Feb. 5, 1994, D.C. Law 10-68, § 16(c), 40 DCR 6311.)

**Prior Codifications.** — 1981 Ed., § 6-1042.  
**Legislative history of Law 8-224.** — For legislative history of D.C. Law 8-224, see Historical and Statutory Notes following § 8-2001.  
**Legislative history of Law 10-68.** — For legislative history of D.C. Law 10-68, see Historical and Statutory Notes following § 8-2003.

## § 8-2013. Rules.

- (a) Within 120 days of March 7, 1991, the Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement the provisions of this chapter.
- (b) The proposed rules shall establish travel routes for and boundaries of the operation of the horse-drawn carriage trade.
- (c) The proposed rules shall establish an appropriate level of liability insurance coverage for the owner or operator of a horse-drawn carriage trade.
- (d) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day period, the proposed rules shall be deemed approved.

(Mar. 7, 1991, D.C. Law 8-224, § 14, 38 DCR 207.)



**Prior Codifications.** — 1981 Ed., § 6-1043. legislative history of D.C. Law 8-224, see Historical and Statutory Notes following § 8-2001.  
**Legislative history of Law 8-224.** — For

## CHAPTER 20A. PET OWNERSHIP RESTRICTION IN ASSISTED HOUSING.

Sec.

8-2031. Definitions.

8-2032. Pet ownership policy established.

8-2033. Exception.

Sec.

8-2034. Civil infractions.

8-2035. Rules.

## § 8-2031. Definitions.

For the purposes of this chapter, the term:

(1) "District" means the District of Columbia.

(2) "Elderly" means any person who is 60 years of age or older.

(3) "Person with a disability" means any person who has a medically determined physical impairment, including blindness, which prohibits and incapacitates 75% of that person's ability to move about, to assist himself or herself, or to engage in an occupation.

(4) "Locally assisted housing accommodation for elderly persons or persons with disabilities" means any building that contains 4 or more rental units, receives District housing assistance, and is designated for elderly tenants or tenants with disabilities. The term "locally assisted housing accommodation for elderly persons or persons with disabilities" shall not include facilities receiving other types of District assistance and licensed under § 44-501 et seq.

(5) "Common household pet" means a domesticated animal, such as a dog, cat, bird, rodent, fish, or turtle, that is traditionally kept in the home for pleasure rather than for commercial purposes. The term "common household pet" shall not include reptiles, other than turtles.

(Mar. 16, 1989, D.C. Law 7-181, § 2, 35 DCR 7715; Apr. 24, 2007, D.C. Law 16-305, § 31(a), 53 DCR 6198.)

**Prior Codifications.** — 2001 Ed., § 8-2201. 1981 Ed., § 6-1021.

**Effect of amendments.** — D.C. Law 16-305, in par. (3), substituted "Person with a disability" for "Handicapped"; and, in par. (4), substituted "elderly persons or persons with disabilities" for "the elderly or handicapped" and "tenants or tenants with disabilities" for "or handicapped tenants".

**Legislative history of Law 7-181.** — Law 7-181, the "Pet Ownership Nonrestriction Act of 1988," was introduced in Council and assigned Bill No. 7-63, which was referred to the Com-

mittee on Human Services. The Bill was adopted on first and second readings on July 12, 1988 and September 27, 1988, respectively. Signed by the Mayor on October 13, 1988, it was assigned Act No. 7-239 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 16-305.** — For Law 16-305, see notes following § 8-1804.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-181, the Pet Ownership Nonrestriction Act of 1988, see Mayor's Order 90-45, March 5, 1990.

## § 8-2032. Pet ownership policy established.

Notwithstanding any other provision of law, the owner or operator of locally assisted housing accommodations for elderly persons or persons with disabilities shall not:

(1) As a condition of tenancy or otherwise, prohibit or prevent an elderly tenant or tenant with a disability from owning common household pets or keeping common household pets in the rental unit of the tenant; or

(2) Discriminate against any person in connection with admission to, or

continued occupancy of, that rental unit by reason of the ownership of common household pets by that person or the presence of common household pets in the rental unit of that person.

(Mar. 16, 1989, D.C. Law 7-181, § 3, 35 DCR 7715; Apr. 24, 2007, D.C. Law 16-305, § 31(b), 53 DCR 6198.)

**Prior Codifications.** — 2001 Ed., § 8-2202. 1981 Ed., § 6-1022.

**Effect of amendments.** — D.C. Law 16-305 substituted “elderly persons or persons with disabilities” for “the elderly or handicapped” and “tenant or tenant with a disability” for “or handicapped tenant”.

**Legislative history of Law 7-181.** — For legislative history of D.C. Law 7-181, see Historical and Statutory Notes following § 8-2031.

**Legislative history of Law 16-305.** — For Law 16-305, see notes following § 8-1804.

### § 8-2033. Exception.

(a) Nothing in this chapter shall be construed to prohibit any owner or operator of a locally assisted housing accommodation for elderly persons or persons with disabilities or any local housing authority from requiring the removal from any rental unit any common household pet whose conduct or condition is duly determined to constitute a threat or nuisance to the health or safety of the other occupants of the housing accommodation. The owner or operator of a locally assisted housing accommodation shall regulate pet ownership in accordance with rules established pursuant to § 8-2035.

(b) No pet shall be kept in violation of health statutes or under circumstances constituting cruelty to animals as set forth in § 22-1001.

(Mar. 16, 1989, D.C. Law 7-181, § 4, 35 DCR 7715; Apr. 24, 2007, D.C. Law 16-305, § 31(c), 53 DCR 6198.)

**Prior Codifications.** — 2001 Ed., § 8-2203. 1981 Ed., § 6-1023.

**Effect of amendments.** — D.C. Law 16-305, in subsec. (a), substituted “elderly persons or persons with disabilities” for “the elderly or handicapped”.

**Legislative history of Law 7-181.** — For legislative history of D.C. Law 7-181, see Historical and Statutory Notes following § 8-2031.

**Legislative history of Law 16-305.** — For Law 16-305, see notes following § 8-1804.

### § 8-2034. Civil infractions.

Any person who violates the provisions of this chapter shall be fined not more than \$300 for each violation. A violation of this chapter shall be a civil infraction for purposes of Chapter 18 of Title 2. Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this chapter, or the rules issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infractions shall be pursuant to Chapter 18 of Title 2.

(Mar. 16, 1989, D.C. Law 7-181, § 5, 35 DCR 7715.)



**Prior Codifications.** — 2001 Ed., § 8-2204. legislative history of D.C. Law 7-181, see Historical and Statutory Notes following § 8-2031.  
1981 Ed., § 6-1024.

**Legislative history of Law 7-181.** — For

## § 8-2035. Rules.

Within 180 days of March 16, 1989, the Mayor shall promulgate proposed rules, in accordance with subchapter I of Chapter 5 of Title 2, to carry out the purposes of this chapter. The proposed rules shall include guidelines, applicable to owners and tenants of locally assisted housing accommodations, on keeping common household pets, pet size, types of pets, potential financial obligation of tenants, and standards of pet care. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the regulations, in whole or in part, by resolution within the 45-day review period, the proposed rules shall be deemed approved.

(Mar. 16, 1989, D.C. Law 7-181, § 6, 35 DCR 7715.)

**Section references.** — This section is referenced in § 8-2033.

**Prior Codifications.** — 2001 Ed., § 8-2205.  
1981 Ed., § 6-1025.

**Legislative history of Law 7-181.** — For legislative history of D.C. Law 7-181, see Historical and Statutory Notes following § 8-2031.

## CHAPTER 21. RODENT CONTROL.

### *Subchapter I. Bureau of Rodent Control*

### *Subchapter II. Rodent Abatement Program*

Sec.

8-2101.01. Establishment of Bureau of Rodent Control.

8-2101.02. Transfer of functions and duties from the Department of Public Works.

Sec.

8-2103.01. Definitions.

8-2103.02, 8-2103.03. [Expired].

8-2103.04. Corrective actions.

8-2103.05. Rodent harborage prohibited.

### *Subchapter I. Bureau of Rodent Control.*

## § 8-2101.01. Establishment of Bureau of Rodent Control.

(a) There is established within the Department of Health a Bureau of Rodent Control ("Bureau").

(b) The Bureau shall be responsible for the control and elimination of rodents in the District that serve as vectors for disease, including but not limited to:

(1) The treatment and baiting of public spaces for rodents;

(2) The conducting of surveys of locations; and

(3) The coordination of public outreach, education and enforcement efforts relating to cleanliness and rodent control.

(Oct. 19, 2000, D.C. Law 13-172, § 902, 47 DCR 6308.)

**Emergency legislation.** — For temporary (90-day) addition of §§ 6-1051.1 to 6-1051.7 1981 Ed., see §§ 902 to 908 of the Fiscal Year 2001 Budget Support Emergency Act of 2000 (D.C. Act 13-376, July 24, 2000, 47 DCR 6574).

For temporary (90 day) amendment of section, see §§ 902 to 908 of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

**Legislative history of Law 13-172.** — Law 13-172, the "Fiscal Year 2001 Budget Support Act of 2000," was introduced in Council and assigned Bill No. 13-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May

18, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-375 and transmitted to both Houses of Congress for its review. D.C. Law 13-172 became effective on October 19, 2000.

**Delegation of Authority.** — Delegation of Authority Pursuant to DC Law 6-100, the "Litter Control Administration Act of 1985;" DC Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985;" DC Law 5-165, the "DC Air Pollution Control Act of 1984;" DC Law 13-172, the "Rodent Control Act of 2000;" and DC Law 6-126, the "Construction Codes Approval and Amendments Act of 1986", see Mayor's Order 2002-5, February 1, 2002 (49 DCR 911).

## § 8-2101.02. Transfer of functions and duties from the Department of Public Works.

All the functions, duties, property, records, and personnel associated with the control and elimination of rodents now under the authority of the Department of Public Works are transferred to the Bureau.

(Oct. 19, 2000, D.C. Law 13-172, § 903, 47 DCR 6308.)

**Emergency legislation.** — For temporary (90-day) addition of section, see notes following § 8-2101.01.

For temporary (90 day) amendment of section, see §§ 902 to 908 of the Fiscal Year 2001 Budget Support Congressional Review Emer-

agency Act of 2000 (D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

**Legislative history of Law 13-172.** — For Law 13-172, see notes following § 8-2101.01.

## *Subchapter II. Rodent Abatement Program.*

### **§ 8-2103.01. Definitions.**

For the purposes of this subchapter, the term:

(1) “Abate” means removing rodent infestations by eliminating or rodent-proofing rodent food sources, eliminating rodent nesting areas, rodent-proofing building entry ways, and poisoning or trapping existing rodent populations.

(2) “Debris” means any of the following:

(A) Construction or demolition waste that is not stored in a rodent-proof container and not removed after 14 days or longer;

(B) Yard waste and branches that are not bundled and set out for waste collection, but not yard waste placed in a properly maintained compost pile; and

(C) Fire wood that is stored next to a building or left in loose piles on the ground, but not fire wood that is stored away from buildings and at least 18 inches above the ground or in a rodent-proof building.

(3) “Grease” means used cooking oil, vegetable oil, shortening, margarine or any other used fat or oil used for cooking, frying or baking intended for recycling or disposal.

(4) “Harborage” means rodent infestation or providing food or nesting areas for rodents, which may be identified by the presence of burrows, droppings, tracks, runways, gnawings, urine stains, odor, live or dead rodents, nests, and rodent gnawed food.

(5) “Hardware cloth” means galvanized metal cloth or netting with small diameter holes used to prevent rodents from entering buildings.

(6) “Rodent-proof” or “rodent-proofing” includes:

(A) Heavy duty plastic or metal containers with tightly-fitting lids fastened to the container; and

(B) Using hardware cloth to seal building openings.

(Oct. 19, 2000, D.C. Law 13-172, § 904, 47 DCR 6308.)

**Emergency legislation.** — For temporary (90 day) amendment of section, see §§ 902 to 908 of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000

(D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

**Legislative history of Law 13-172.** — For Law 13-172, see notes following § 8-2101.01.

### **§§ 8-2103.02 Rodent Control Fund. [Expired].**

Expired.

(Oct. 19, 2000, D.C. Law 13-172, § 905, 47 DCR 6308.)

**Emergency legislation.** — For temporary (90 day) amendment of section, see §§ 902 to 908 of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000

(D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

**Legislative history of Law 13-172.** — For Law 13-172, see notes following § 8-2101.01.



**Editor's notes.** — Pursuant to subsection (d) of this section, this section expired on September 30, 2002.

**§ 8-2103.03. Disbursements from the Fund. [Expired].**

Expired.

(Oct. 19, 2000, D.C. Law 13-172, § 906, 47 DCR 6308.)

**Emergency legislation.** — For temporary (90 day) amendment of section, see §§ 902 to 908 of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

**Legislative history of Law 13-172.** — For Law 13-172, see notes following § 8-2101.01.

**Editor's notes.** — Pursuant to subsection (f) of this section, this section expired on September 30, 2002.

**§ 8-2103.04. Corrective actions.**

(a) Subject to the availability of appropriations, the Bureau may undertake actions to correct certain health hazards that have resulted from the harborage of rodents, including cleanup, abatement, and preventive measures, if the following conditions exist:

- (1) The District needs to take an action in order to protect human health;
- (2) One or more of the following conditions exist:

(A) The action is required to protect public space;

(B) No person can be found who is the owner of the property in question, and is capable of proper implementation of the required corrective action within 30 days of the posting of notice on the property in question that violation of this subtitle has occurred, or shorter period if so determined by the Mayor as may be necessary to protect human health;

(C) A situation exists that requires immediate action by the Mayor to protect human health; or

(D) The responsible party has failed or refused to comply within 30 days of a mayoral order for compliance.

(b) If the District incurs costs for undertaking any corrective or enforcement action to abate rodent infestation, rodent harborage, or rodent food sources, all parties found to be liable by the Mayor shall be jointly and severally liable to the District government for the costs incurred by the District. In addition to any other enforcement action, the Mayor may assess any reasonable costs for correcting the condition and any related expenses as a tax against the property, carry the tax on the regular tax rolls, and collect the tax in the same manner as real estate taxes are collected.

(Oct. 19, 2000, D.C. Law 13-172, § 907, 47 DCR 6308.)

**Emergency legislation.** — For temporary (90 day) amendment of section, see §§ 902 to 908 of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000

(D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

**Legislative history of Law 13-172.** — For Law 13-172, see notes following § 8-2101.01.

**§ 8-2103.05. Rodent harborage prohibited.**

(a) It shall be unlawful for any person to cause or permit the accumulation of debris on public or private property or cause or permit weeds or grass to grow to a height of 8 inches or more on private property which they own.

(b) Upon the transfer or change in occupancy of any real property, the owner of the property shall inspect the property for signs of rodent harborage. If signs of past rodent harborage are found, all rodent entryways shall be sealed with hardware cloth or another appropriate material to prevent re-infestation. If an active infestation is found, all rodent entryways shall be sealed with hardware cloth or other appropriate material, and the infestation shall be abated.

(c) Any person violating subsections (a) and (b) of this section shall abate the condition causing rodent harborage within 14 days of notification of the violation from the Mayor. Any abatement of existing rodent populations shall be performed by a licensed and certified pest controller. Any person who fails to abate the condition causing rodent harborage shall be liable to arrest and upon conviction shall be deemed guilty of a misdemeanor and shall be subject to a fine for each offense not to exceed \$10,000, or shall be imprisoned for a period not to exceed 90 days, or both, in the discretion of the court.

(d) Civil fines, penalties and fees may be imposed as alternative sanctions for any infraction of this subtitle, or any rules or regulations issued under the authority of this subchapter, pursuant to Chapter 18 of Title 2. Adjudication of any infractions shall be pursuant to Chapter 18 of Title 2.

(Oct. 19, 2000, D.C. Law 13-172, § 908, 47 DCR 6308.)

**Emergency legislation.** — For temporary (90 day) amendment of section, see §§ 902 to 908 of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

**Legislative history of Law 13-172.** — For Law 13-172, see notes following § 8-2101.01.

**Delegation of Authority.** — Delegation of Authority Pursuant to Title IX of D.C. Law 13-172, the “Rodent Control Act of 2000”, see Mayor’s Order 2001-21, February 2, 2001 (48 DCR 1362).

CHAPTER 21A. VECTOR-BORNE INFECTIOUS DISEASES CONTROL.

Sec.	Sec.
8-2131.01. Definitions.	8-2131.07. Vector-Borne Infectious Diseases Control Fund.
8-2131.02. Prohibited activities.	8-2131.08. Penalties.
8-2131.03. Inspection.	8-2131.09. Rules.
8-2131.04. Prima facie evidence of a public health nuisance.	<i>Subchapter II. Mosquito Control and Abatement</i>
8-2131.05. Abatement of a public health nuisance.	8-2141.01. Annual mosquito control and abatement plan.
8-2131.06. Corrective actions by District to abate a public health nuisance.	

§ 8-2131.01. Definitions.

For the purposes of this chapter, the term:

(1) “Abate” means to eliminate a public health nuisance, or to reduce the degree or intensity of a public health nuisance.

(2) “District” means the District of Columbia.

(3) “Person” means any individual; partnership; corporation, including a government corporation; trust association; firm; joint stock company; organization; commission; the District or federal government; or any other entity.

(4) “Property” means land, including any water thereon, and improvements to land.

(5) “Public health nuisance” means:

(A) Any property, including water, that supports the development, attraction, or harborage of vectors;

(B) Any property that has a vessel, container, or other structure holding water that provides a breeding place for vectors; or

(C) Any activity that supports the development, attraction, or harborage of vectors, or that facilitates the introduction or spread of vectors.

(6) “Vector” means any animal capable of transmitting the causative agent of human or animal disease or capable of producing human discomfort or injury, including mosquitoes, flies, mites, ticks, or other arthropods.

(May 18, 2004, D.C. Law 15-163, § 2, 51 DCR 3683.)

**Legislative history of Law 15-163.** — Law 15-163, the “Vector-Borne Infectious Diseases Control Act of 2004”, was introduced in Council and assigned Bill No. 15-531, which was referred to the Committee on Human Services. The Bill was adopted on first and second read-

ings on February 3, 2004, and March 2, 2004, respectively. Signed by the Mayor on March 18, 2004, it was assigned Act No. 15-409 and transmitted to both Houses of Congress for its review. D.C. Law 15-163 became effective on May 18, 2004.

§ 8-2131.02. Prohibited activities.

(a) No person shall:

(1) Cause or allow the open dumping of any tire;

(2) Cause or allow the open burning of any tire;

(3) Cause or allow the storage of any tire unless the owner or operator of the property where the tire is stored takes measures to prevent the tire from accumulating water by covering or altering the tire; or



(4) Cause or allow a tire to be used in playground equipment unless the tire is altered to prevent the accumulation of water.

(b) No person shall cause or allow standing water on property unless the person takes measures to prevent the breeding or harborage of vectors, including the following:

(1) Draining or replacing water frequently enough to prevent vector breeding;

(2) Keeping swimming pools and other open waters used for bathing or swimming sufficiently chlorinated to prevent vector larva from hatching;

(3) Covering water-bearing containers with fine netting to prevent access by vectors; or

(4) Applying larvicide to the standing water.

(May 18, 2004, D.C. Law 15-163, § 3, 51 DCR 3683.)

**Legislative history of Law 15-163.** — For Law 15-163, see notes following § 8-2131.01.

### § 8-2131.03. Inspection.

(a) The Mayor, acting on the Mayor's own information or observation, or on the information or observation of another person, may inspect occupied or vacant property to investigate an allegation of a public health nuisance.

(b) Upon the presentation of appropriate credentials to the owner or occupant of the property, the Mayor shall conduct the inspection during reasonable times and in a reasonable manner.

(c) If the owner or occupant of the property denies the Mayor access for the purposes of this section, the Mayor may apply to a court of competent jurisdiction for a search warrant.

(d) If, as a result of an inspection, the Mayor determines that a public health nuisance exists, the Mayor may order the owner or occupant to take appropriate action to abate the public health nuisance in accordance with § 8-2131.05.

(May 18, 2004, D.C. Law 15-163, § 4, 51 DCR 3683.)

**Legislative history of Law 15-163.** — For Law 15-163, see notes following § 8-2131.01.

### § 8-2131.04. Prima facie evidence of a public health nuisance.

The presence of vectors in their developmental stages on a property, or in a vessel, container, or other structure on a property, shall be prima facie evidence of a public health nuisance.

(May 18, 2004, D.C. Law 15-163, § 5, 51 DCR 3683.)

**Legislative history of Law 15-163.** — For Law 15-163, see notes following § 8-2131.01.

**§ 8-2131.05. Abatement of a public health nuisance.**

(a) When the Mayor determines that a public health nuisance exists on a property, the Mayor shall issue a notice of violation to the person alleged to have created the public health nuisance or the owner or occupant of the property. The Mayor may serve the notice of violation on the owner, occupant, or any other responsible person at the premises, deliver the notice of violation by prepaid mail, return receipt requested to the owner or occupant of the property, or post the notice in a conspicuous place on the property in violation. The notice of violation shall include the following:

- (1) The location, date, and time that the public health nuisance took place or that the Mayor investigated the public health nuisance;
- (2) The nature of the public health nuisance;
- (3) The time, not later than 10 days, within which the public health nuisance shall be abated;
- (4) The specific corrective actions the owner or occupant shall take to abate the public health nuisance; and
- (5) A statement that failure to abate the public health nuisance shall constitute a violation of this chapter, with each day of violation constituting a separate offense.

(b) Upon receipt of a notice of violation, the person responsible for the property shall abate the public health nuisance within the time specified in the notice of violation. The Mayor may grant additional time to abate the public health nuisance upon a request from the responsible person and a good faith showing that the person has made an effort to abate the public health nuisance and that a longer time for abatement is necessary.

(May 18, 2004, D.C. Law 15-163, § 6, 51 DCR 3683.)

**Section references.** — This section is referenced in § 8-2131.03.

**Legislative history of Law 15-163.** — For Law 15-163, see notes following § 8-2131.01.

**§ 8-2131.06. Corrective actions by District to abate a public health nuisance.**

(a) Subject to the availability of appropriations, the Mayor may undertake actions to correct certain health hazards that have resulted from the development, attraction, or harborage of vectors, including cleanup, abatement, and preventive measures, if the following conditions exist:

- (1) The District needs to take an action in order to protect human health; and
- (2) One or more of the following conditions exist:
  - (A) The action is required to protect public space;
  - (B) No person can be found who is the owner of the property in question, and is capable of proper implementation of the required corrective action within 30 days of the posting of notice on the property in question that violation of this chapter has occurred, or shorter period, if so determined by the Mayor, as may be necessary to protect human health;

(C) A situation exists that requires immediate action by the Mayor to protect human health; or

(D) The responsible party has failed or refused to comply within 30 days of a mayoral order for compliance.

(b) If the District incurs costs for undertaking any corrective or enforcement action to abate development, attraction, or harborage of vectors, all parties found to be liable by the Mayor shall be jointly and severally liable to the District government for the costs incurred by the District. In addition to any other enforcement action, the Mayor may assess any reasonable costs for correcting the condition and any related expenses as a tax against the property, carry the tax on the regular tax rolls, and collect the tax in the same manner as real estate taxes are collected.

(May 18, 2004, D.C. Law 15-163, § 7, 51 DCR 3683.)

**Section references.** — This section is referenced in § 8-2131.07.

**Legislative history of Law 15-163.** — For Law 15-163, see notes following § 8-2131.01.

## § 8-2131.07. Vector-Borne Infectious Diseases Control Fund.

(a) There is established the Vector-Borne Infectious Diseases Control Fund (“Fund”) as a nonlapsing, revolving fund, to be administered by the Mayor as an agency fund as defined in § 47-373(2)(I), to be used exclusively for the purposes stated in subsection (b) of this section.

(b) Disbursements from the Fund may be used by the District to undertake actions to correct certain public health hazards that have resulted from the harborage of vectors, including cleanup, abatement, and preventive measures, in accordance with § 8-2131.06(a), and to cover the administrative and operational costs incurred by the District in the implementation of the corrective actions.

(c) The Fund shall be financed through fines, civil penalties, costs and judgments recovered, and monies received as reimbursement by the District government pursuant to this chapter and regulations promulgated by the Mayor.

(d) The Fund shall be accounted for under procedures established pursuant to subchapter V of Chapter 3 of Title 47.

(e) Nothing in this section shall be construed to make the District government responsible for corrective action costs to any person in excess of the monies in the Fund.

(May 18, 2004, D.C. Law 15-163, § 8, 51 DCR 3683.)

**Legislative history of Law 15-163.** — For Law 15-163, see notes following § 8-2131.01.

## § 8-2131.08. Penalties.

A violation of this chapter or the rules issued under authority of this chapter shall be a civil infraction for the purposes of Chapter 18 of Title 2. Civil fines,



penalties, and fees may be imposed as sanctions for any infraction of the provisions of this chapter, or the rules issued under authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction shall be pursuant to Chapter 18 of Title 2.

(May 18, 2004, D.C. Law 15-163, § 9, 51 DCR 3683.)

**Legislative history of Law 15-163.** — For Law 15-163, see notes following § 8-2131.01.

## § 8-2131.09. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this chapter.

(May 18, 2004, D.C. Law 15-163, § 10, 51 DCR 3683.)

**Legislative history of Law 15-163.** — For Law 15-163, see notes following § 8-2131.01.

**Delegation of Authority.** — Delegation of Authority Pursuant to the Vector-Borne Infec-

tious Diseases Control Act of 2004, see Mayor's Order 2005-145, September 30, 2005 (53 DCR 318).

## *Subchapter II. Mosquito Control and Abatement.*

**Legislative history of Law 19-168.** — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012,

and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

## § 8-2141.01. Annual mosquito control and abatement plan.

Beginning March 31, 2013, and annually thereafter, the Department of Health shall develop and submit to the Council a mosquito-abatement plan, delineated by ward, for the following fiscal year to prevent and abate the infestation of mosquitoes, which shall, at a minimum, include a:

- (1) Determination of which wards are in greatest need of mosquito abatement;
- (2) Plan of action to eliminate the habitats of immature mosquitoes and control immature and adult mosquitoes;
- (3) Plan to ensure that eradication measures are not injurious to pets or wildlife; and
- (4) Delineation of the costs associated with the entire plan.

(Sept. 20, 2012, D.C. Law 19-168, § 5022, 59 DCR 8025.)

**Legislative history of Law 19-168.** — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012,

and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

## CHAPTER 22. WILDLIFE PROTECTION.

Sec.	Sec.
8-2201. Definitions.	8-2207. Service records and annual reports. [Not funded].
8-2202. Wildlife control service providers.	8-2208. Suspension or revocation of license. [Not funded].
8-2203. Notice to clients.	8-2209. Fees. [Not funded].
8-2204. Wildlife control operator license. [Not funded].	8-2210. Complaints.
8-2205. General wildlife control operator li- cense conditions. [Not funded].	8-2211. Enforcement.
8-2206. Control of specific species. [Not funded].	8-2212. Applicability.

## § 8-2201. Definitions.

For the purposes of this chapter, the term:

(1) “Animal Care and Control Agency” means the agency established by § 8-1802.

(2) “Department” means the District Department of the Environment.

(3) “Director” means the Director of the District Department of the Environment.

(4) “Licensed wildlife rehabilitator” means a wildlife rehabilitator licensed in any state or the District.

(5) “Wildlife” shall include any free-roaming wild animal, but shall not include:

- (A) Domestic animals;
- (B) Commensal rodents;
- (C) Invertebrates; and
- (D) Fish.

(6) “Wildlife control” means to harass, repel, evict, exclude, possess, transport, liberate, reunite, rehome, take, euthanize, or kill wildlife.

(7) “Wildlife control operator” means a person who is licensed to perform wildlife control services under § 8-2204, but shall not include the Animal Care and Control Agency or a property manager as defined by § 47-2853.141.

(8) “Wildlife control services provider” means the operator of a business which involves the charging of a fee for services in wildlife control.

(Mar. 8, 2011, D.C. Law 18-289, § 2, 57 DCR 11499.)

**Legislative history of Law 18-289.** — Law 18-289, the “Wildlife Protection Act of 2010”, was introduced in Council and assigned Bill No. 18-498, which was referred to the Committee on Government Operations and the Environment. The Bill was adopted on first and second readings on October 5, 2010, and No-

vember 9, 2010, respectively. Enacted without signature of the Mayor on December 2, 2010, it was assigned Act No. 18-610 and transmitted to both Houses of Congress for its review. D.C. Law 18-289 became effective on March 8, 2011.

**Editor’s notes.** — Former § 8-2201 has been recodified as § 8-2031.

## § 8-2202. Wildlife control service providers.

(a) A wildlife control services provider shall recommend and employ nonlethal means in preference to lethal means for the control of problem wildlife.

(b) All traps and exclusion devices used by a wildlife control services

provider shall be labeled with the name, address, and phone number of the wildlife control service provider.

(c) Traps used by a wildlife control services provider shall be set in a manner designed to catch the target animal and in the manner likely to avoid capture of and harm to non-target animals.

(d) Wildlife shall be captured, handled, and, when permissible, transported, in a manner to ensure against causing unnecessary discomfort, behavioral stress, or physical harm to the animal, including providing protections against weather extremes.

(e) All traps shall be checked by the wildlife control services provider in a timely and reasonable manner, but no more than 24 hours after being set, and at least once every 24 hours thereafter; provided, that traps shall be checked more frequently if environmental conditions require.

(f) Captured non-target wildlife shall be released immediately at the site of capture. Captured non-target wildlife that pose an unreasonable risk to the health and safety to persons or domestic animals or that are injured and need veterinary care and rehabilitation shall:

(1) With permission of the property owner, be relocated to a suitable location where nuisance problems are unlikely to occur;

(2) Transferred to a wildlife rehabilitator, if the animal is sick, injured, or abandoned; or

(3) Euthanized if relocation or rehabilitation are not feasible.

(g) Captured target wildlife shall be:

(1) Released at the site of capture;

(2) With permission of the property owner, be relocated to a safe location where nuisance problems are unlikely to occur;

(3) Transferred to a wildlife rehabilitator, if the animal is sick, injured, or abandoned; or

(4) If none of the other options are feasible, euthanized.

(h) Wildlife expressing symptoms of disease shall be taken to a licensed wildlife rehabilitator or surrendered to the Animal Care and Control Agency for evaluation and assessment. Outbreaks or potential widespread occurrence of suspect diseases, such as avian botulism, shall be reported to the Department.

(i) A wildlife control services provider shall make every reasonable effort to preserve family units using humane eviction or displacement and reunion strategies and shall not knowingly abandon dependent young wildlife in a structure.

(j) Wildlife shall not be kept in captivity longer than 36 hours unless specifically authorized by the Department or unless reunion attempts are being employed. In the case of attempted reunion, a wildlife control services provider may hold wildlife in captivity for up to 72 hours.

(k) Captured wildlife shall be transported in covered, secure containers in such a way as to:

(1) Minimize stress to the animal and its exposure to the elements by covering the trap or vehicle with appropriate material;

(2) Ensure that the covering is of such material that the animal has an adequate supply of air to prevent overheating; and



(3) Minimize potential hazards to the general public.

(l) A wildlife control services provider shall not use sticky or glue traps to control any wildlife.

(m) A wildlife control services provider shall not use leghold and other body-gripping traps, body-crushing traps, snares, or harpoon-type traps to control any wildlife.

(n) A wildlife control services provider shall kill wildlife only by methods that conform to the most recently published Report of the American Veterinary Medical Association Panel on Euthanasia, unless otherwise prohibited by this chapter or rules promulgated by the Department.

(o) A wildlife control services provider shall use the available method of euthanasia that is the quickest, least stressful, and least painful to the animal under the circumstances.

(Mar. 8, 2011, D.C. Law 18-289, § 3, 57 DCR 11499.)

**Legislative history of Law 18-289.** — For history of Law 18-289, see notes under § 8-2201.

**Editor's notes.** — Former § 8-2202 has been recodified as § 8-2032.

## § 8-2203. Notice to clients.

Before undertaking any control measures, a wildlife control services provider shall provide to the client, in writing, the following:

(1) An assessment of the problem, including identification of possible causes of the problem;

(2) The methods and practices that may be used to resolve the problem, clearly specifying possible lethal and nonlethal means;

(3) Agreed-upon disposition of the animal;

(4) An estimate of the fee to be charged; and

(5) Where applicable, the methods and practices which the client may employ in the future to limit recurrence of the problem.

(Mar. 8, 2011, D.C. Law 18-289, § 4, 57 DCR 11499.)

**Legislative history of Law 18-289.** — For history of Law 18-289, see notes under § 8-2201.

**Editor's notes.** — Former § 8-2203 has been recodified as § 8-2033.

## § 8-2204. Wildlife control operator license. [Not funded].

[Not funded].

(Mar. 8, 2011, D.C. Law 18-289, § 5, 57 DCR 11499.)

**Section references.** — This section is referenced in § 8-2201 and § 8-2212.

**Legislative history of Law 18-289.** — For history of Law 18-289, see notes under § 8-2201.

**Editor's notes.** — Former § 8-2204 has been recodified as § 8-2034.

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 18-289 has not been included in an approved budget and financial plan. Therefore, the provisions of sections 5 through 10 of Law 18-289 are not in effect.

**§ 8-2205. General wildlife control operator license conditions. [Not funded].**

[Not funded].

(Mar. 8, 2011, D.C. Law 18-289, § 6, 57 DCR 11499.)

**Legislative history of Law 18-289.** — For history of Law 18-289, see notes under § 8-2201.

**Editor's notes.** — Former § 8-2205 has been recodified as § 8-2035.

The Budget Director of the Council of the

District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 18-289 has not been included in an approved budget and financial plan. Therefore, the provisions of sections 5 through 10 of Law 18-289 are not in effect.

**§ 8-2206. Control of specific species. [Not funded].**

[Not funded].

(Mar. 8, 2011, D.C. Law 18-289, § 7, 57 DCR 11499.)

**Legislative history of Law 18-289.** — For history of Law 18-289, see notes under § 8-2201.

**Editor's notes.** — The Budget Director of the Council of the District of Columbia has

determined, as of February 15, 2012, that the fiscal effect of Law 18-289 has not been included in an approved budget and financial plan. Therefore, the provisions of sections 5 through 10 of Law 18-289 are not in effect.

**§ 8-2207. Service records and annual reports. [Not funded].**

[Not funded].

(Mar. 8, 2011, D.C. Law 18-289, § 8, 57 DCR 11499.)

**Legislative history of Law 18-289.** — For history of Law 18-289, see notes under § 8-2201.

**Editor's notes.** — The Budget Director of the Council of the District of Columbia has

determined, as of February 15, 2012, that the fiscal effect of Law 18-289 has not been included in an approved budget and financial plan. Therefore, the provisions of sections 5 through 10 of Law 18-289 are not in effect.

**§ 8-2208. Suspension or revocation of license. [Not funded].**

[Not funded].

(Mar. 8, 2011, D.C. Law 18-289, § 9, 57 DCR 11499.)

**Legislative history of Law 18-289.** — For history of Law 18-289, see notes under § 8-2201.

**Editor's notes.** — The Budget Director of the Council of the District of Columbia has

determined, as of February 15, 2012, that the fiscal effect of Law 18-289 has not been included in an approved budget and financial plan. Therefore, the provisions of sections 5 through 10 of Law 18-289 are not in effect.

**§ 8-2209. Fees. [Not funded].**

[Not funded].

(Mar. 8, 2011, D.C. Law 18-289, § 10, 57 DCR 11499.)

**Legislative history of Law 18-289.** — For history of Law 18-289, see notes under § 8-2201.

**Editor's notes.** — The Budget Director of the Council of the District of Columbia has

determined, as of February 15, 2012, that the fiscal effect of Law 18-289 has not been included in an approved budget and financial plan. Therefore, the provisions of sections 5 through 10 of Law 18-289 are not in effect.

## § 8-2210. Complaints.

The Department shall keep a record of any written or oral complaints lodged against a wildlife control services provider and shall document action taken by the Department in response to the complaint.

(Mar. 8, 2011, D.C. Law 18-289, § 11, 57 DCR 11499.)

**Legislative history of Law 18-289.** — For history of Law 18-289, see notes under § 8-2201.

## § 8-2211. Enforcement.

(a) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this chapter.

(b) The Mayor may bring an action in the Superior Court of the District of Columbia to enjoin the violation or threatened violation of any provision of this chapter or of any rules promulgated under this chapter.

(Mar. 8, 2011, D.C. Law 18-289, § 12, 57 DCR 11499.)

**Legislative history of Law 18-289.** — For history of Law 18-289, see notes under § 8-2201.

## § 8-2212. Applicability.

Sections 8-2204 through 8-2209 shall apply upon the inclusion of their fiscal effect in an approved budget and financial plan.

(Mar. 8, 2011, D.C. Law 18-289, § 13, 57 DCR 11499.)

**Cross references.** — Surveyor of the District of Columbia, duties, see § 1-1301 et seq.

**Legislative history of Law 18-289.** — For history of Law 18-289, see notes under § 8-2201.

**Editor's notes.** — The Budget Director of

the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 18-289 has not been included in an approved budget and financial plan. Therefore, the provisions of sections 5 through 10 of Law 18-289 are not in effect.





# TITLE 9. TRANSPORTATION SYSTEMS.

## SUBTITLE I. HIGHWAYS, BRIDGES, STREETS, AND ALLEYS.

### Chapter

1. Highway Plans.
2. Street and Alley Closing and Acquisition Procedures.
3. Bridges, Viaducts, and Subways.
4. Street Repair and Construction.
5. Street Lighting.
6. Removal of Snow and Ice From Streets and Sidewalks.
- 6A. Block Parties.

## SUBTITLE II. AIRPORTS.

7. Washington National Airport.
8. Dulles International Airport.
9. District of Columbia Regional Airports Authority.
10. Metropolitan Washington Airports.

## SUBTITLE III. NATIONAL CAPITAL REGION TRANSPORTATION.

11. National Capital Region Transportation.

## SUBTITLE IV. MISCELLANEOUS.

- 11A. Bus Shelters.
- 11B. Streetcars 2010.
12. Miscellaneous Provisions.

# SUBTITLE I. HIGHWAYS, BRIDGES, STREETS, AND ALLEYS.

## CHAPTER 1. HIGHWAY PLANS.

### *Subchapter I. General*

Sec.	Sec.
9-101.01. Control and repair of streets.	9-101.08. Reversion of title upon abandonment of streets.
9-101.02. Jurisdiction over public roads and bridges.	9-101.09. Resubdivision of property affected by highway plan pending condemnation proceedings.
9-101.03. Certain public roads declared public highways.	9-101.10. Street, avenue, or public thoroughfare prohibited within 1,000 feet of Naval Observatory.
9-101.04. [Repealed].	9-101.11. Massachusetts Avenue through grounds of United States Naval Observatory.
9-101.05. Use of property by owner until condemnation.	9-101.12. New highway plans authorized.
9-101.06. Public notice of proposed plan.	9-101.13. Subdivision to conform to plan of Washington.
9-101.07. Beatty and Hawkins's Addition to Georgetown.	

Sec.

- 9-101.14. District authorized to use certain land owned by United States for street purposes.
- 9-101.15. Right-of-way over Michigan Avenue to Washington Railway and Electric Company.
- 9-101.16. Highway construction program authorized.
- 9-101.17. Use of land in squares 354 and 355 for Southwest Freeway and for redevelopment of Southwest area of District.
- 9-101.18. Authority to acquire and transfer to Secretary of the Interior real property in exchange for real property transferred to the District; payments in lieu of transfer of property.

*Subchapter II. Permanent Highway Plan*

- 9-103.01. Width of highways.
- 9-103.02. Preparation by Mayor; maps.
- 9-103.03. Adoption of subdivision by reference.
- 9-103.04. Entry upon property for survey authorized.
- 9-103.05. [Repealed].
- 9-103.06. Inapplicability of §§ 9-103.01 to 9-103.05 to Interstate System.

*Subchapter III. Relocation of Michigan Avenue*

- 9-105.01. Relocation of Michigan Avenue authorized.
- 9-105.02. Use of part of Soldiers' Home for street purposes.
- 9-105.03. Portion of Michigan Avenue abandoned.
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*Subchapter IV. Federal-Aid Highway Projects*

PART A

General

- 9-107.01. Authority to provide payments and services.
- 9-107.02. Authority to pay public utility relocation expenses; definitions.
- 9-107.03. Contract authority.
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PART B

Transportation Infrastructure Improvement  
GARVEE Bonding Financing

Sec.

- 9-107.51. Definitions.
- 9-107.52. Bond authorization.
- 9-107.53. Creation of the Transportation Infrastructure Improvement Fund.
- 9-107.54. Payment and security.
- 9-107.55. Bond details.
- 9-107.56. Issuance of the GARVEE Bonds.
- 9-107.57. Financing and Closing Documents.
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- 9-107.59. District officials.
- 9-107.60. Maintenance of documents.
- 9-107.61. Information reporting.
- 9-107.62. Authority of the Chief Financial Officer.

*Subchapter V. Emergency Highway Relief*

- 9-109.01. District of Columbia emergency highway relief.
- 9-109.02. Dedicated highway fund and repayment of temporary waiver amounts.
- 9-109.03. Additional requirements.

*Subchapter VI. Highway Trust Fund*

- 9-111.01. District of Columbia Highway Trust Fund.
- 9-111.01a. Local Transportation Fund.
- 9-111.01b. [Repealed].
- 9-111.01c. Cost-transfer projects.

*Subchapter VI-A. Fund Reporting Requirement*

- 9-111.31. Reporting requirements.

*Subchapter VII. Repealed Provisions*

- 9-113.01 to 9-113.06. [Repealed].

*Subchapter VIII. Council Review of the Planned Use of Klingle Road, N.W.*

PART A

Council Review

- 9-115.01. Plan for future use of Klingle Road.
- 9-115.02. Expenditure of funds for Klingle Road.

PART B

Klinge Road Restoration

- 9-115.11. Re-opening of Klinge Road.

*Subchapter I. General.*

**§ 9-101.01. Control and repair of streets.**

The Mayor of the District of Columbia shall have entire control of, and the



Council of the District of Columbia shall make all regulations which it shall deem necessary for keeping in repair, the streets, avenues, alleys, and sewers of the City, and all other works which may be intrusted to the Mayor's charge by the Congress.

(R.S., D.C., § 77; June 20, 1874, 18 Stat. 116, ch. 337, § 2; June 11, 1878, 20 Stat. 103, ch. 180, § 2.)

**Cross references.** — Regulations necessary for the protection of lives, limbs, health, comfort, and quiet, see § 1-303.03.

Removal of snow and ice, see § 9-601 et seq.  
Street cleaning and sewer maintenance, see § 1-305.01.

**Prior Codifications.** — 1981 Ed., § 7-101.  
1973 Ed., § 7-101.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(150) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CASE NOTES

### ANALYSIS

Federal highway legislation.  
In general.

### Federal highway legislation.

Congress, having accorded all citizens the right to participate in determination of federally financed highway projects through public hearings, could not, without adequate justification, discriminate against citizens of District of Columbia by directing that construction of bridge in the district proceed without compliance with hearing requirements. 23 U.S.C. § 101 et seq.; Act Aug. 23, 1968, § 23, 82 Stat. 815. D. C. Federation of Civic Assos. v. Volpe, 434 F.2d 436, 1970 U.S. App. LEXIS 9973 (C.A.D.C. 1970).

That action of District of Columbia city council in approving bridge was direct result of congressional pressure and threats regarding rapid transit appropriations did not establish noncompliance by council with requirements of federal-aid highway statute. Federal-Aid Highway Act of 1968, § 23, 82 Stat. 827; D.C. Code § 7-101 et seq. D. C. Federation of Civic Assos. v. Volpe, 316 F. Supp. 754, 1970 U.S. Dist. LEXIS 10691 (1970), remanded by 3 Env't Rep. Cas. (BNA) 1806, 2 Env'tl. L. Rep. 20092 (D.C. Cir. 1971), reversed by 459 F.2d 1231, 148 U.S. App. D.C. 207, 1971 U.S. App. LEXIS 7660, 3 Env't Rep. Cas. (BNA) 1143, 3 Env't Rep. Cas.

(BNA) 1806, 1 Env'tl. L. Rep. 20572, 2 Env'tl. L. Rep. 20092, 19 A.L.R. Fed. 854 (1972).

### In general.

Statute providing that secretary of transportation and government of District of Columbia should construct all routes of interstate system as soon as possible and "in accordance with all applicable provisions of title 23" and that District of Columbia should commence work on bridge requires that both the planning and building of bridge comply with the planning or hearing requirement of title 23. 23 U.S.C. § 101 et seq.; Act Aug. 23, 1968, § 23, 82 Stat. 815. D. C. Federation of Civic Assos. v. Volpe, 434 F.2d 436, 1970 U.S. App. LEXIS 9973 (C.A.D.C. 1970).

Federal-Aid Highway acts have not given authority to District of Columbia officials responsible for planning and construction of highway projects in the District to proceed with planning and construction of four links of proposed District of Columbia freeway system without regard for Title 7 of the District of Columbia Code relating to highways, streets and bridges. D.C. Code § 7-101 et seq. D. C. Federation of Civic Assos. v. Airis, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

Statute providing that Secretary of Transportation and government of District of Columbia should construct all routes of interstate system as soon as possible and "in accordance with all applicable provisions of Title 23" and that Dis-

trict of Columbia should commence work on bridge meant that construction of bridge should proceed forthwith and did not require further compliance with planning or hearing requirements of Title 23. D.C. Code § 7-101 et seq.; Federal-Aid Highway Act of 1968, § 23, 82

Stat. 815. D.C. Federation of Civic Assos. v. Volpe, 308 F. Supp. 423, 1970 U.S. Dist. LEXIS 13269 (D.D.C.1970), reversed by 434 F.2d 436, 140 U.S. App. D.C. 162, 1970 U.S. App. LEXIS 9973, 1 Env't Rep. Cas. (BNA) 1316, 1 Env'tl. L. Rep. 20539 (1970).

## § 9-101.02. Jurisdiction over public roads and bridges.

The Mayor of the District of Columbia shall have the care and charge of, and the exclusive jurisdiction over, all the public roads and bridges, except such as belong to and are under the care of the United States, and except such as may be otherwise specially provided for by Congress.

(R.S., D.C., § 247; June 20, 1874, 18 Stat. 116, ch. 337, § 2; June 11, 1878, 20 Stat. 103, ch. 180, § 2.)

**Cross references.** — Barbed-wire fences, see § 9-1213.01 et seq.

Bridges, see § 9-301 et seq.

"Business streets," designation and regulation, see § 9-1201.05.

Construction of public buildings, municipal center site acquisition, condemnation of public streets and alleys, see § 10-601.

Criminal trespass, obstruction of public roads and highways, see §§ 22-3320 and 22-3321.

Electrical wiring and conduit systems, see §§ 9-1207.03, 34-1401 et seq., and 34-2501 et seq.

Jurisdiction over public roads, miscellaneous provisions, see § 9-1201.01 et seq.

MacArthur Boulevard, transfer of jurisdiction to the Council of the District of Columbia, see § 9-1201.01.

Naming of public spaces, see § 9-204.01 et seq.

National Park Service, public streets, duties, see §§ 9-1201.04 and 9-1201.07, and 9-1201.08.

Public parks and playgrounds, see § 10-101 et seq.

Rights-of-way through cemeteries, see § 1-1315.

Roadway widening and sidewalk establishment, lands under jurisdiction of the National Park Service, authorization, see § 10-123.

Secretary of the Interior, prevention of improper appropriation or occupation of public streets, see § 9-1201.09.

Street lighting, regulation of gas mains, see § 9-506.

Street parking, see § 10-106.

Traffic regulations, see § 50-2201.01 et seq.

United States Navy Yard, railroad connection, see §§ 9-1203.02 to 9-1203.05.

Water mains and service sewers, see §§ 34-2401.01 and 34-240

**Prior Codifications.** — 1981 Ed., § 7-102. 1973 Ed., § 7-102.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CASE NOTES

### ANALYSIS

In general.

Liability for negligence.

Regulating use of driveways.

### In general.

Congress has power to provide that the cost

of a highway improvement in the District of Columbia shall be paid by the District, or by the owners of lands benefited by the improvement, and not by the United States. *Bauman v. Ross*, 17 S.Ct. 966, 1897 U.S. LEXIS 2116 (U.S. Dist. Col. 1897).

District of Columbia has primary responsibility

ity for maintaining streets and sidewalks in reasonably safe condition, regardless of who owns the fee in such streets and sidewalks, in absence of special circumstances such as accumulation of snow or ice or improvement of the way in question by the United States. D.C. Code §§ 7-102, 7-802, 7-803, 7-1207, 7-1208. *Conner v. United States*, 309 F. Supp. 446, 1970 U.S. Dist. LEXIS 12987 (D.D.C.1970).

#### **Liability for negligence.**

Under Act Cong. June 11, 1878 (20 Stat. p. 102, c. 180), declaring the District of Columbia a municipal corporation, and vesting its government as such in three commissioners, among whose duties is the control of streets therein, the District is liable for injuries to the person arising from the negligence of the commissioners in maintaining the streets of the city of Washington in a safe condition for public use. *District of Columbia v. Woodbury*, 10 S.Ct. 990, 1890 U.S. LEXIS 2224 (U.S. Dist. Col. 1890).

Where a sidewalk belonged to the United States, and it was not sufficiently shown to the

court as a matter of law on motion for summary judgment in a personal injury action against the United States and the District of Columbia, that the walk was not also under the care of the United States, the United States was not entitled to summary judgment on theory that District of Columbia had sole responsibility for the sidewalk. D.C. Code 1951, § 7-102. *Leary v. District of Columbia*, 166 F.Supp. 542, 1958 U.S. Dist. LEXIS 3574 (D.D.C.1958).

#### **Regulating use of driveways.**

The Commissioners of the District can make reasonable regulations for the use of driveways across sidewalks, but the right to regulate does not include the right to prohibit. *Brownlow v. O'Donoghue Bros.*, 276 F. 636, 1921 U.S. App. LEXIS 2130 (1921).

The decision of the Commissioners of the District in regulating the use of driveways across a sidewalk will not be disturbed if it has any reasonable basis in the facts. *Brownlow v. O'Donoghue Bros.*, 276 F. 636, 1921 U.S. App. LEXIS 2130 (1921).

### **LAW REVIEWS AND JOURNAL COMMENTARIES**

Balancing Security and Access in the Nation's Capital: Managing Federal Security-Related Street Closures and Traffic Restrictions in

the District of Columbia. DC Appleseed Center for Law and Justice, 8 U.D.C.L.Rev. 181 (2004).

## **§ 9-101.03. Certain public roads declared public highways.**

All public roads within said District, outside the limits of Washington and Georgetown, which were duly laid out or declared and recorded as such on June 22, 1874, are public highways.

(R.S., D.C., § 246.)

**Cross references.** — City of Georgetown, abolition, see § 1-107.

Public ways, streets and alleys on recorded plats, see § 1-1314.

**Prior Codifications.** — 1981 Ed., § 7-104. 1973 Ed., § 7-104.

## **§ 9-101.04. Abandonment or readjustment of streets to provide ground for educational, religious, or similar institutions. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 712, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-113.  
**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

torical and Statutory Notes following § 9-113.01.



**§ 9-101.05. Use of property by owner until condemnation.**

The owner or owners of land over or upon which any highway or reservation shall be projected upon any map filed under §§ 9-103.01 to 9-103.05 shall have the free right to the use and enjoyment of the same for building or any other lawful purpose, and the free right to transfer the title thereof, until proceedings looking to the condemnation of such land shall have been authorized and actually begun. And as to any highway or part of highway which by any such map is to be abandoned neither the right of those occupying or owning land abutting thereon or adjacent thereto, nor the right of the public to use such highway or part of highway, shall be affected by the filing of such map until condemnation proceedings looking to the ascertainment of the damages resulting from such proposed abandonment shall have been authorized and actually begun; nor shall the obligation of the municipal authorities to keep the same in repair be affected until they are rendered useless by the opening and improvement of new highways, to be evidenced by public notice by the Mayor of the District of Columbia.

(June 28, 1898, 30 Stat. 520, ch. 519, § 5.)

**Prior Codifications.** — 1981 Ed., § 7-114.  
1973 Ed., § 7-114.

**References in text.** — “Section 9-103.05”, referred to in the first sentence, was repealed by § 711 of D.C. Law 4-201, effective March 10, 1983.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

**§ 9-101.06. Public notice of proposed plan.**

(a) At least 30 days prior to the submissions by the Mayor of the District of Columbia to the National Capital Planning Commission and to the Council of the District of Columbia for approvals of a proposed modification to the permanent system of highways, the Mayor shall provide written notice of an opportunity to submit comments on the proposed modification to:

(1) Each owner of land within the squares in which or adjacent to which the proposed modification is located, by registered mail to the address to which taxation notifications are sent by the District of Columbia Department of Finance and Revenue;

(2) Each Advisory Neighborhood Commission within whose commission area the proposed modification is located; and

(3) The public, by publishing the proposed modification in the District of Columbia Register.

(b) Copies of comments received by the Mayor shall be included in any subsequent submission by the Mayor to the Council of the District of Columbia

of a resolution to consider the proposed modification to the permanent system of highways.

(June 28, 1898, 30 Stat. 520, ch. 519, § 6; May 10, 1988, D.C. Law 7-106, § 3, 35 DCR 2170.)

**Prior Codifications.** — 1981 Ed., § 7-115. 1973 Ed., § 7-115.

**Emergency legislation.** — For temporary (90 day) addition, see § 3 of Abandonment of the Highway Plan for the Unimproved Highway Plan Right-of-Way Along West Virginia Avenue, N.E., Abutting Mt. Olivet Road, N.E., Capitol Avenue, N.E., Fenwick Street, N.E., and West Virginia Avenue, N.E., Adjacent to Squares 4045 and 4046 S.O. 10-13744 Emergency Act of 2010 (D.C. Act 18-514, July 30, 2010, 57 DCR 7967).

**Legislative history of Law 7-106.** — Law 7-106, the “New Streets or Alleys Amendment Act of 1988,” was introduced in Council and assigned Bill No. 7-100, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 16, 1988 and March 1, 1988, respectively. Signed by the Mayor on March 16, 1988, it was assigned Act No. 7-148 and transmitted to both Houses of Congress for its review.

**References in text.** — Pursuant to the Office of the Chief Financial Officer’s “Notice of Public Interest” published in the April 18, 1997, issue of the District of Columbia Register (44 DCR 2345) the Office of Tax and Revenue assumed all of the duties and functions previously performed by the Department of Finance and Revenue, as set forth in Commissioner’s Order 69-96, dated March 7, 1969. This action was made effective January 22, 1997, nunc pro tunc.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-106, “New Street or Alley Amendment Act of 1988”, see Mayor’s Order 88-162, July 11, 1988.

**Resolutions.** — Resolution 15-132, the “Abandonment of the Highway Plan for the Unimproved Highway Plan Right-of-way Between 18th Street, S.E. and Good Hope Road, S.E. S.O. 01-1355, Resolution of 2003”, was approved effective July 8, 2003.

Resolution 15-133, the “Abandonment of the Highway Plan for the Unimproved Highway Plan Right-of-way Between 18th Street, S.E.

and Good Hope Road, S.E. S.O. 01-1355, Resolution of 2003”, was approved effective July 8, 2003.

Resolution 15-134, the “Abandonment of the Highway Plan for the Unimproved Highway Plan Right-of-way Between 24th Street, S.E. and Good Hope Road, S.E. S.O. 01-1411, Resolution of 2003”, was approved effective July 8, 2003.

Resolution 18-651, the “Abandonment of the Highway Plan for the Unimproved Highway Plan Right-Of-Way Along West Virginia Avenue, N.E., Abutting Mt. Olivet Road, N.E., Capitol Avenue, N.E., Fenwick Street, N.E., and West Virginia Avenue, N.E., Adjacent to Squares 4045 and 4046, S.O. 10-13744, Approval Resolution of 2010”, was approved effective October 19, 2010.

Resolution 19-136, the “Abandonment of the Highway Plan for Hamlin Street, N.E., S.O. 07-1657, Resolution of 2011”, was approved effective June 6, 2011.

**Editor’s notes.** — Approval of abandonment of highway plan: Section 4 of D.C. Law 8-76 provided that the Council approved the abandonment of the highway plan for the portion of 42nd Street, N.W., South of W Street, N.W., as shown on the Surveyor’s plat filed under S.O. 87-51.

Section 3 of D.C. Law 18-68 provided: “Sec. 3. Notwithstanding section 6 of An Act to provide a permanent system of highways in that part of the District of Columbia lying outside the cities, and for other purposes, approved June 28, 1898 (30 Stat. 520; D.C. Official Code § 9-101.06), the Council amends the permanent system of highways, to accommodate the residential development in accordance with the plans approved pursuant to Zoning Commission Case No. 06-30, by adding the area of land shown on the Surveyor’s plat filed under S.O. 07-3090 as new public streets, which pursuant to section 401 of the Act (D.C. Official Code § 9-204.01), and notwithstanding section 402 of the Act (D.C. Official Code § 9-204.02), shall be designated as Water Lily Lane, N.E., and Cassell Place, N.E.”

## CASE NOTES

### In general.

Where Congress by statute directed that construction of bridge between the District of Columbia and Virginia go forward “notwithstanding any other provision of law or any court

decision or administrative action to the contrary” and that work should commence within 30 days, provisions of the D.C. Code relating to construction and planning of highways, both those which the Court of Appeals had held to be



applicable in its prior opinion and those not mentioned in the prior opinion, were rendered inapplicable to the extent that compliance with such provisions would conflict with the direction that work commence within 30 days, but authorities were not precluded from taking advantage of any of the provisions which they might find desirable or useful in connection with the project. Act Aug. 23, 1968, § 23, 82 Stat. 815; D.C. Code §§ 1-1005(a), 1-1407(a)(7), 7-108, 7-109, 7-115, 7-122, 8-115. *D. C. Federation of Civic Ass'ns v. Volpe*, 459 F.2d 1231, 1971 U.S. App. LEXIS 7660 (C.A.D.C. 1971), writ of certiorari denied by 405 U.S. 1030, 92 S. Ct. 1290, 31 L. Ed. 2d 489, 1972 U.S. LEXIS 4183, 3 Env't Rep. Cas. (BNA) 1950, 2 Env'tl. L. Rep. 20096 (1972).

Federal-Aid Highway acts have not given authority to District of Columbia officials responsible for planning and construction of highway projects in the District to proceed with

planning and construction of four links of proposed District of Columbia freeway system without regard for Title 7 of the District of Columbia Code relating to highways, streets and bridges. D.C. Code § 7-101 et seq. *D. C. Federation of Civic Assos. v. Airis*, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

Primary purpose of Federal-Aid Highway acts is to stimulate and accelerate construction of federal-aid highway systems by offering federal aid to state and local bodies which construct these approved highways. 23 U.S.C. §§ 101(b), 128(a). *D. C. Federation of Civic Assos. v. Airis*, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

State laws regulating planning and building of highways were not set aside by the Federal-Aid Highway acts. 23 U.S.C. §§ 101(b), 128(a). *D. C. Federation of Civic Assos. v. Airis*, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

## § 9-101.07. Beatty and Hawkins's Addition to Georgetown.

All the powers given to the Mayor and Council of the District of Columbia and others under §§ 9-103.01 to 9-103.05 shall apply to and be capable of being exercised upon and through Beatty and Hawkins's Addition to Georgetown, where it may be necessary to connect streets in parts of the District lying outside of cities, or to connect any street in the city with streets in the District of Columbia.

(Apr. 12, 1904, 33 Stat. 587, Joint Res. No. 21.)

**Prior Codifications.** — 1981 Ed., § 7-116. 1973 Ed., § 7-116.

**References in text.** — "Section 9-103.05" has been repealed by § 711 of D.C. Law 4-201, effective March 10, 1983.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(154, 156) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commission-

ers under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-101.08. Reversion of title upon abandonment of streets.

Upon the abandonment of any street, avenue, road, or highway, or part thereof, under the provisions of §§ 9-103.01 to 9-103.05, the title to the land contained in such abandoned portion shall revert to the owners of the land abutting thereon.

(Feb. 16, 1904, 33 Stat. 14, ch. 159, § 2.)



**Cross references.** — Street and alley closing and acquisition procedures, see § 9-201.01 et seq.

**Prior Codifications.** — 1981 Ed., § 7-118.

1973 Ed., § 7-118.

**References in text.** — “Section 9-103.05” has been repealed by § 711 of D.C. Law 4-201, effective March 10, 1983.

### § 9-101.09. Resubdivision of property affected by highway plan pending condemnation proceedings.

Where any proposed street of the permanent system of highways affects any lot or block of a subdivision recorded in the Office of the Surveyor of the District of Columbia, the Mayor of the District of Columbia may, in his discretion, allow the resubdivision of such lot or block in a manner conforming to the original subdivision until such time as condemnation proceedings are begun for the opening of the proposed street affecting the land to be subdivided.

(Feb. 26, 1904, 33 Stat. 51, ch. 164.)

**Prior Codifications.** — 1981 Ed., § 7-119.  
1973 Ed., § 7-119.

**Delegation of Authority.** — Delegation of Authority-Office of the Surveyor, see Mayor's Order 2005-180, November 28, 2005 (53 DCR 462).

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-101.10. Street, avenue, or public thoroughfare prohibited within 1,000 feet of Naval Observatory.

No street, avenue, or public thoroughfare in the neighborhood of the buildings erected upon the United States Naval Observatory grounds, Georgetown Heights, District of Columbia, shall extend within the area of a circle described with a radius of 1,000 feet from the center of the building known as the clock room of the said Observatory.

(Aug. 1, 1894, 28 Stat. 588, Joint Res. No. 40, § 1.)

**Section references.** — This section is referenced in § 9-101.11.

**Prior Codifications.** — 1981 Ed., § 7-120.  
1973 Ed., § 7-120.

### § 9-101.11. Massachusetts Avenue through grounds of United States Naval Observatory.

Massachusetts Avenue, as laid down in conformity with § 9-101.10 upon the maps of the engineer department of the District of Columbia, through the grounds of the United States Naval Observatory is declared to be a public street in all respects as the other public streets of the District of Columbia.

(Aug. 1, 1894, 28 Stat. 588, Joint Res. No. 40, § 2.)

**Prior Codifications.** — 1981 Ed., § 7-121. 1973 Ed., § 7-121.

## § 9-101.12. New highway plans authorized.

The Mayor of the District of Columbia is hereby authorized, whenever in his judgment the public interests require it, to prepare a new highway plan for any portion of the District of Columbia, and submit the same for approval, after public hearing, to the National Capital Planning Commission; such highway plans shall be prepared under §§ 9-101.04 to 9-101.06 and 9-103.01 to 9-103.05, and upon approval and recording of any such new highway plan it shall take the place of and stand for any previous plan for the portion of the District of Columbia affected.

(Mar. 4, 1913, 37 Stat. 949, ch. 150.)

**Prior Codifications.** — 1981 Ed., § 7-122. 1973 Ed., § 7-122.

**Transfer of Functions.** — The functions, powers, and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of June 6, 1924, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of

Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### In general.

Where Congress by statute directed that construction of bridge between the District of Columbia and Virginia go forward “notwithstanding any other provision of law or any court decision or administrative action to the contrary” and that work should commence within 30 days, provisions of the D.C. Code relating to construction and planning of highways, both those which the Court of Appeals had held to be applicable in its prior opinion and those not mentioned in the prior opinion, were rendered inapplicable to the extent that compliance with such provisions would conflict with the direction that work commence within 30 days, but authorities were not precluded from taking advantage of any of the provisions which they might find desirable or useful in connection with the project. Act Aug. 23, 1968, § 23, 82 Stat. 815; D.C. Code §§ 1-1005(a), 1-1407(a)(7), 7-108, 7-109, 7-115, 7-122, 8-115. *D. C. Federation of Civic Ass'ns v. Volpe*, 459 F.2d 1231, 1971

U.S. App. LEXIS 7660 (C.A.D.C. 1971), writ of certiorari denied by 405 U.S. 1030, 92 S. Ct. 1290, 31 L. Ed. 2d 489, 1972 U.S. LEXIS 4183, 3 Env't Rep. Cas. (BNA) 1950, 2 Env'tl. L. Rep. 20096 (1972).

Law authorizing commissioners of District of Columbia to prepare new highway plans did not limit them to plans prepared under previous laws. Act March 4, 1913, D.C. Code 1929, T. 12, § 37; Act March 2, 1893 (27 Stat. 532); Act June 28, 1898 (30 Stat. 519). *Wilkinson v. Dougherty*, 24 F.2d 1007, 1928 U.S. App. LEXIS 2227 (1928).

District of Columbia statutes requiring preparation by the commissioners of the district of a plan for permanent system of highways, that map depicting the system be filed and be certified to the National Capital Planning Commission for recommendations are applicable to local highway improvements but do not apply to highway improvements constructed with federal aid. D.C. Code §§ 7-108, 7-109, 7-122. *D.*



C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

Property owners who owned property the value of which might be reduced by proposed highway projects did not have any legal personal rights that were being adversely affected and such owners did not have standing to maintain suit against District of Columbia official to restrain expenditure of municipal funds for proposed highway projects. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

Taxpayers of District of Columbia had standing to maintain suit against District of Columbia officials, but not federal officials, to restrain expenditure of funds for proposed highway projects to be constructed with municipal and federal funds. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

Civic associations did not have standing to sue District of Columbia officials to restrain

expenditure of municipal funds for highway projects. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

Users of public parks within sites of proposed highway projects who contended that their rights to use the parks would be interfered with by construction had no rights separate and apart from those of the rest of the public and park users had no standing to sue to restrain District of Columbia officials from expending municipal funds for proposed highway project. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

Central committee of political party which was not incorporated was not an entity and had no capacity to sue or be sued and could not maintain action against District of Columbia officials to restrain expenditure of municipal funds for construction of proposed highway projects. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

### § 9-101.13. Subdivision to conform to plan of Washington.

No subdivision of land in the District of Columbia without the limits of the City of Washington shall be recorded in the Office of the Surveyor or in the Office of the Recorder of Deeds unless the same shall have been first approved by the Mayor of the District of Columbia and be in conformity with the recorded plans for a permanent system of highways.

(Mar. 3, 1901, 31 Stat. 1428, ch. 854, § 1604.)

**Prior Codifications.** — 1981 Ed., § 7-125. 1973 Ed., § 7-125.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-101.14. District authorized to use certain land owned by United States for street purposes.

The Mayor of the District of Columbia is authorized to use for street purposes 1,651 square feet of a tract of land known as parcel 17/93, 708 square feet of a tract of land known as parcel 18/52, and 380 square feet of a tract of land known as parcel 18/23, all for the widening of Reservoir Road, and to use for street purposes 23,779.63 square feet of a tract of land known as parcel



28/12 for the widening of Reservoir Road and Forty-fourth Street; and to use for street purposes a strip of land 60 feet wide containing 258,750 square feet, more or less, lying immediately northeasterly of the southwesterly boundary of a tract of land known as parcel 173/23 for the widening of South Dakota Avenue; and to use for street purposes 9,000 square feet, more or less, of a tract of land known as parcel 243/15 for the extension of Trenton Street and for the widening of 4th Street Southeast; and to use for street purposes 1,521.28 square feet of lot 802, square 1932, and 3,669.88 square feet of lot 837, square 1300, for the widening of Wisconsin Avenue, all as shown on maps designated as Street Extension Maps 1150 and 1154, and Surveyor's Office Maps 1314 and 1373, on file in the Office of the Surveyor of the District of Columbia, all the above-described property herein authorized to be used for street purposes being owned by the United States of America.

(Feb. 27, 1929, 45 Stat. 1341, ch. 353.)

**Prior Codifications.** — 1981 Ed., § 7-126.  
1973 Ed., § 7-126.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-101.15. Right-of-way over Michigan Avenue to Washington Railway and Electric Company.

The Mayor of the District of Columbia is hereby authorized, upon the straightening and shortening of Michigan Avenue as provided by §§ 9-101.15 and 9-105.01 to 9-105.04, to do any and all acts which may be necessary to give the Washington Railway and Electric Company such easement or right-of-way over said Michigan Avenue as is necessary for the proper operation of the railway lines and cars of said company over said avenue as straightened and shortened by the provisions of said sections.

(Mar. 4, 1929, 45 Stat. 1545, ch. 682, § 7.)

**Section references.** — This section is referenced in § 9-105.04.

**Prior Codifications.** — 1981 Ed., § 7-131.  
1973 Ed., § 7-131.

**Editor's notes.** — Consolidation of transit companies: The Washington Railway and Electric Company and the Capital Traction Company were consolidated under the name of Capital Transit Company by the Act of January 14, 1933, 47 Stat. 752, ch. 10, § 1.

**Change in Government.** — This section originated at a time when local government

powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished

the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia.

respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### **§ 9-101.16. Highway construction program authorized.**

A program of construction projects to meet immediate capital needs for highways in the District is hereby authorized.

(May 18, 1954, 68 Stat. 110, ch. 218, title IV, § 401.)

**Prior Codifications.** — 1981 Ed., § 7-132.

1973 Ed., § 7-132.

### **§ 9-101.17. Use of land in squares 354 and 355 for Southwest Freeway and for redevelopment of Southwest area of District.**

The Mayor of the District of Columbia is hereby authorized to use the land in squares 354 and 355 in the District of Columbia, and the water frontage on the Washington Channel of the Potomac River lying south of Maine Avenue between 11th and 12th Streets, including the buildings and wharves thereon, for the proposed Southwest Freeway and Washington Channel approaches thereto, and for the redevelopment of the Southwest area of the District of Columbia pursuant to authority contained in subchapter I of Chapter 3 of Title 6.

(Aug. 28, 1958, 72 Stat. 983, Pub. L. 85-821.)

**Prior Codifications.** — 1981 Ed., § 7-133.  
1973 Ed., § 7-134.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### **§ 9-101.18. Authority to acquire and transfer to Secretary of the Interior real property in exchange for real property transferred to the District; payments in lieu of transfer of property.**

(a) The Mayor of the District of Columbia is authorized to acquire by purchase, donation, condemnation or otherwise, real property for transfer to the Secretary of the Interior in exchange or as replacement for park, parkway, and playground lands transferred to the District of Columbia for a public

purpose pursuant to § 10-111 and the Mayor is further authorized to transfer to the United States title to property so acquired.

(b) Payments are authorized to be made by the Mayor, and received by the Secretary of the Interior, in lieu of property transferred pursuant to subsection (a) of this section. The amount of such payment shall represent the cost to the Secretary of the Interior of acquiring real property suitable for replacement of the property so transferred as agreed upon between the Mayor and the head of said agency and shall be available for the acquiring of the replacement property.

(Aug. 23, 1968, 82 Stat. 828, Pub. L. 90-495, § 23(e), (f).)

**Cross references.** — Housing redevelopment, relocation assistance, see § 6-333.01.

**Prior Codifications.** — 1981 Ed., § 7-138. 1973 Ed., § 7-136.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorgani-

zation Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## *Subchapter II. Permanent Highway Plan.*

### § 9-103.01. Width of highways.

The Mayor of the District of Columbia is hereby authorized and directed to prepare a plan for the extension of a permanent system of highways over all that portion of said District not included within the limits of the Cities of Washington and Georgetown. Said system shall be made as nearly in conformity with the street plan of the City of Washington as the Council of the District of Columbia may deem advisable and practicable. The highways provided in such plans shall not in any case be less than 90 feet nor more than 160 feet wide, except in cases of existing highways, which may be established of any width not less than their existing width and not more than 160 feet in width.

(Mar. 2, 1893, 27 Stat. 532, ch. 197, § 1.)

**Cross references.** — City of Georgetown, . . . abolition, see § 1-107.

Highway Commission, powers transferred to the National Capital Planning Commission, see § 2-1007.

Street and alley closing and acquisition procedures, "highway plan" defined, see § 9-201.01.

Streets and highways, repair and construction, width of pavement, see §§ 9-401.11 and 9-401.12.

**Section references.** — This section is referenced in § 2-1007, § 9-101.05, § 9-101.07, § 9-101.08, § 9-103.02, § 9-103.06, and § 9-201.01.

**Prior Codifications.** — 1981 Ed., § 7-107. 1973 Ed., § 7-108.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(153) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The



District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced

by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### ANALYSIS

Federal highway legislation.  
In general.  
Standing.

#### Federal highway legislation.

Federal-Aid Highway legislation is not inconsistent with District of Columbia Code sections limiting highway width to 160 feet, or with Code section directing the District government to assess landowners abutting newly constructed highways for additional benefits. 23 U.S.C. §§ 101(b), 128(a); D.C. Code §§ 7-108, 7-201. D. C. Federation of Civic Assos. v. Airis, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

Federal-Aid Highway acts have not given authority to District of Columbia officials responsible for planning and construction of highway projects in the District to proceed with planning and construction of four links of proposed District of Columbia freeway system without regard for Title 7 of the District of Columbia Code relating to highways, streets and bridges. D.C. Code § 7-101 et seq. D. C. Federation of Civic Assos. v. Airis, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

Federal statute setting forth steps to be undertaken by states for the approval of highways to be constructed with federal aid are applicable to the District of Columbia. 23 U.S.C. § 101. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

#### In general.

District of Columbia statutes requiring preparation by the commissioners of the district of a plan for permanent system of highways, that map depicting the system be filed and be certi-

fied to the National Capital Planning Commission for recommendations are applicable to local highway improvements but do not apply to highway improvements constructed with federal aid. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

The National Capital Planning Commission is a federal agency and not a local District of Columbia agency and is not subject to suit to restrain expenditure of funds for construction of highway projects. National Capital Planning Act of 1952, § 2, 40 U.S.C. § 71a; Department of Transportation Act, § 6, 49 U.S.C. § 1655. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

#### Standing.

Taxpayers of District of Columbia had standing to maintain suit against District of Columbia officials, but not federal officials, to restrain expenditure of funds for proposed highway projects to be constructed with municipal and federal funds. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

Users of public parks within sites of proposed highway projects who contended that their rights to use the parks would be interfered with by construction had no rights separate and apart from those of the rest of the public and park users had no standing to sue to restrain District of Columbia officials from expending municipal funds for proposed highway project. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

## § 9-103.02. Preparation by Mayor; maps.

The said plans shall be prepared from time to time in sections, each of which shall cover such an area as the Mayor of the District of Columbia may deem advisable to include therein, and it shall be the duty of the Mayor in preparing such plan by sections, as far as may be practicable, to select first such areas as are covered by existing suburban subdivisions not in conformity with the general plan of the City of Washington. The Mayor in making such plans shall adopt and conform to any then existing subdivisions which shall have been

made in compliance with the provisions of the Act of Congress approved August 27, 1888, entitled "An act to regulate the subdivision of land within the District of Columbia" (25 Stat. 451), or which shall, in the opinion of the Mayor, conform to the general plan of the City of Washington; provided, however, that no place or street extending no farther than from 1 principal street to another, which has been opened under the direction of the Mayor, or in conformity with any subdivision approved by them prior to August 27, 1888, and recorded, and which was on March 2, 1893, paved with asphalt or other sheet pavement, shall be altered, affected, or interfered with by any plan adopted or anything done under or by virtue of §§ 9-103.01 to 9-103.05. Whenever the plan of any such section shall have been adopted by the Mayor, he shall cause a map of the same to be made showing the boundaries and dimensions of and number of square feet in the streets, avenues, and roads established by him therein; the boundaries and dimensions of and number of square feet in each, if any, of the then existing highway in the area covered by such map, and the boundaries and dimensions of and number of square feet in each lot of any then existing subdivision owned by private persons; and containing such explanations as shall be necessary to a complete understanding of such map. In making such maps the Mayor is further authorized to lay out at the intersections of the principal avenues and streets thereof circles or other reservations corresponding in number and dimensions with those existing on March 2, 1893, at such intersections in the City of Washington. A copy of such map, duly certified by the Mayor, shall be delivered to the National Capital Planning Commission, which shall make such alterations, if any, therein, as it shall deem advisable, keeping in view the intention and provisions of §§ 9-103.01 to 9-103.05, and the necessity of harmonizing as far as possible the public convenience with economy of expenditure; and if such Commission shall see fit, it may cause to be made a new map in place of the one submitted to them. When such Commission, or a majority thereof, shall have come to a final determination in the matter, it shall approve in writing the map which it shall adopt, and shall deliver it to said Mayor of the District of Columbia, and the same shall at once be filed and recorded in the Office of the Surveyor of the District of Columbia, and after any such map shall have been so recorded no further subdivision of any land included therein shall be admitted to record in the Office of the Surveyor of said District, or in the Office of the Recorder of Deeds thereof, unless the same be first approved by the Mayor and be in conformity to such map. Nor shall it be lawful when any such map shall have been so recorded for the Mayor of the District of Columbia, or any other officer or person representing the United States or the District of Columbia, to thereafter improve, repair, or assume any responsibility in regard to any abandoned highway within the area covered by such map, or to accept, improve, repair, or assume any responsibility in regard to any highway that any owner of land in such area shall thereafter attempt to lay out or establish, unless such landowner shall first have submitted to the Mayor a plat of such proposed highway and the Mayor shall have found the same to be in conformity to such map, and shall have approved such plat and caused it to be recorded in the Office of said Surveyor.



(Mar. 2, 1893, 27 Stat. 532, ch. 197, § 2.)

**Cross references.** — Recordkeeping, maps, charts, and surveys of streets and highways, see § 1-1306.

**Prior Codifications.** — 1981 Ed., § 7-108. 1973 Ed., § 7-109.

**References in text.** — “Section 9-103.05”, referred to in the second and fifth sentences, was repealed by § 711 of D.C. Law 4-201, effective March 10, 1983.

**Transfer of Functions.** — The functions, powers, and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of June 6, 1924, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

**Delegation of Authority.** — Delegation of Authority-Office of the Surveyor, see Mayor’s Order 2005-180, November 28, 2005 (53 DCR 462).

**Change in Government.** — This section originated at a time when local government

powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CASE NOTES

### ANALYSIS

In general.  
Standing to sue.

### In general.

Congress has power to provide that the cost of a highway improvement in the District of Columbia shall be paid by the District, or by the owners of lands benefited by the improvement, and not by the United States. *Bauman v. Ross*, 17 S.Ct. 966, 1897 U.S. LEXIS 2116 (U.S. Dist. Col. 1897).

Under Act March 2, 1893, c. 197, § 2 (27 Stat. 532), providing for the recording of a map of the plan prepared by the commissioners for the extension of a permanent system of highways in the District of Columbia outside of cities, and further providing that after the map is recorded no further subdivision of any land included therein shall be admitted to record unless the same be first approved by the commissioners, or be in conformity to the map, the mere recording of the map does not entitle the owners of lands to any compensation or damages. *Bauman v. Ross*, 17 S.Ct. 966, 1897 U.S. LEXIS 2116 (U.S. Dist. Col. 1897).

Where Congress by statute directed that construction of bridge between the District of Columbia and Virginia go forward “notwithstanding any other provision of law or any court decision or administrative action to the contrary” and that work should commence within 30 days, provisions of the D.C. Code relating to construction and planning of highways, both

those which the Court of Appeals had held to be applicable in its prior opinion and those not mentioned in the prior opinion, were rendered inapplicable to the extent that compliance with such provisions would conflict with the direction that work commence within 30 days, but authorities were not precluded from taking advantage of any of the provisions which they might find desirable or useful in connection with the project. Act Aug. 23, 1968, § 23, 82 Stat. 815; D.C. Code §§ 1-1005(a), 1-1407(a)(7), 7-108, 7-109, 7-115, 7-122, 8-115. *D. C. Federation of Civic Ass’n v. Volpe*, 459 F.2d 1231, 1971 U.S. App. LEXIS 7660 (C.A.D.C. 1971), writ of certiorari denied by 405 U.S. 1030, 92 S. Ct. 1290, 31 L. Ed. 2d 489, 1972 U.S. LEXIS 4183, 3 Env’t Rep. Cas. (BNA) 1950, 2 Env’tl. L. Rep. 20096 (1972).

Act of March 2, 1893, was intended to regulate wide Interstate Expressways. D.C. Code §§ 7-108 to 7-112. *D. C. Federation of Civic Assos. v. Airis*, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

Federal-Aid Highway legislation is not inconsistent with District of Columbia Code sections limiting highway width to 160 feet, or with Code section directing the District government to assess landowners abutting newly constructed highways for additional benefits. 23 U.S.C. §§ 101(b), 128(a); D.C. Code §§ 7-108, 7-201. *D. C. Federation of Civic Assos. v. Airis*, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

District of Columbia statutes requiring preparation by the commissioners of the district of a



plan for permanent system of highways, that map depicting the system be filed and be certified to the National Capital Planning Commission for recommendations are applicable to local highway improvements but do not apply to highway improvements constructed with federal aid. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

If District of Columbia officials were not taking any step forbidden by law by the expenditure of funds for construction and planning of proposed highway projects they were acting in accordance with law and taxpayers' suit to restrain expenditure of funds should be determined in favor of District of Columbia for the court has no authority to consider the merits of the projects as that is entirely and solely for consideration of legislative and executive branches of the government. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

A change in highway plan provides only one possible basis for street closing under Street Readjustment Act, and Congress did not intend a highway plan modification to be a prerequisite to a closing. D.C. Code §§ 7-108, 7-122, 7-401, 7-408; Reorganization Plan No. 3, § 402(153, 156, 158), D.C. Code Tit. 1, Appendix I. Chevy Chase Citizens Asso. v. District of Columbia Council, 307 A.2d 740, 1973 D.C. App. LEXIS 413 (1973), vacated by 309 A.2d 97 (D.C. 1973).

#### **Standing to sue.**

Property owners who owned property the value of which might be reduced by proposed highway projects did not have any legal personal rights that were being adversely affected and such owners did not have standing to maintain suit against District of Columbia official to restrain expenditure of municipal funds for proposed highway projects. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

Taxpayers of District of Columbia had standing to maintain suit against District of Columbia officials, but not federal officials, to restrain expenditure of funds for proposed highway projects to be constructed with municipal and federal funds. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

Civic associations did not have standing to sue District of Columbia officials to restrain expenditure of municipal funds for highway projects. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

Users of public parks within sites of proposed highway projects who contended that their rights to use the parks would be interfered with by construction had no rights separate and apart from those of the rest of the public and park users had no standing to sue to restrain District of Columbia officials from expending municipal funds for proposed highway project. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

Central committee of political party which was not incorporated was not an entity and had no capacity to sue or be sued and could not maintain action against District of Columbia officials to restrain expenditure of municipal funds for construction of proposed highway projects. D.C. Code §§ 7-108, 7-109, 7-122. D. C. Federation of Civic Assos. v. Airis, 275 F. Supp. 533, 1967 U.S. Dist. LEXIS 8627 (D.D.C.1967).

Abutting property owners are authorized to petition for street closing and as long as District of Columbia Council reasonably concludes that particular street closing is justified by and consistent with at least one of the criteria set forth in statute its action may be sustained irrespective of possible private benefits. D.C. Code §§ 7-108, 7-122, 7-401, 7-408; Reorganization Plan No. 3, § 402(153, 156, 158), D.C. Code Tit. 1, Appendix I. Chevy Chase Citizens Asso. v. District of Columbia Council, 307 A.2d 740, 1973 D.C. App. LEXIS 413 (1973), vacated by 309 A.2d 97 (D.C. 1973).

### **§ 9-103.03. Adoption of subdivision by reference.**

When any such map shall have been recorded as aforesaid in the Office of the Surveyor of the District it shall be lawful for the owner of any land included within such map to adopt the subdivision thereby made by a reference thereto and to this section in any deed or will which he shall thereafter make, and when any deed or will containing any such reference shall have been made and recorded in the proper office it shall have the same effect as though the grantor or grantors in such deed or the maker of such will had made such subdivision and recorded the same in compliance with law.

(Mar. 2, 1893, 27 Stat. 533, ch. 197, § 3.)

**Prior Codifications.** — 1981 Ed., § 7-109. 1973 Ed., § 7-110.

#### CASE NOTES

##### **In general.**

Act of March 2, 1893, was intended to regulate wide Interstate Expressways. D.C. Code §§ 7-108 to 7-112. D. C. Federation of Civic Assos. v. Airis, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

Primary purpose of Federal-Aid Highway acts is to stimulate and accelerate construction of federal-aid highway systems by offering federal aid to state and local bodies which con-

struct these approved highways. 23 U.S.C. §§ 101(b), 128(a). D. C. Federation of Civic Assos. v. Airis, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

State laws regulating planning and building of highways were not set aside by the Federal-Aid Highway acts. 23 U.S.C. §§ 101(b), 128(a). D. C. Federation of Civic Assos. v. Airis, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

### § 9-103.04. Entry upon property for survey authorized.

For the purpose of making surveys for such plans and maps the Mayor of the District of Columbia and his agents and employees necessarily engaged in making such surveys are authorized to enter upon any lands through or on which any projected highway or reservation may run or lie.

(Mar. 2, 1893, 27 Stat. 534, ch. 197, § 4.)

**Prior Codifications.** — 1981 Ed., § 7-110. 1973 Ed., § 7-111.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act. 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### CASE NOTES

##### **In general.**

Act of March 2, 1893, was intended to regulate wide Interstate Expressways. D.C. Code §§ 7-108 to 7-112. D. C. Federation of Civic Assos. v. Airis, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

State laws regulating planning and building of highways were not set aside by the Federal-Aid Highway acts. 23 U.S.C. §§ 101(b), 128(a). D. C. Federation of Civic Assos. v. Airis, 391

F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

Primary purpose of Federal-Aid Highway acts is to stimulate and accelerate construction of federal-aid highway systems by offering federal aid to state and local bodies which construct these approved highways. 23 U.S.C. §§ 101(b), 128(a). D. C. Federation of Civic Assos. v. Airis, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

### § 9-103.05. Council authorized to name streets. [Repealed].

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 711, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-111. torical and Statutory Notes following § 9-113.01.  
**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

## § 9-103.06. Inapplicability of §§ 9-103.01 to 9-103.05 to Interstate System.

None of the provisions of §§ 9-103.01 to 9-103.05 shall apply to any segment of the Interstate System within the District of Columbia.

(Aug. 13, 1973, 87 Stat. 268, Pub. L. 93-87, title I, § 135.)

**Prior Codifications.** — 1981 Ed., § 7-112. referred to in the heading and text, was repealed by § 711 of D.C. Law 4-201, effective March 10, 1983.  
 1973 Ed., § 7-112a.

**References in text.** — “Section 9-103.05”,

### CASE NOTES

#### In general.

Act of March 2, 1893, was intended to regulate wide Interstate Expressways. D.C. Code §§ 7-108 to 7-112. D. C. Federation of Civic Assos. v. Airis, 391 F.2d 478, 1968 U.S. App. LEXIS 8052 (C.A.D.C. 1968).

### *Subchapter III. Relocation of Michigan Avenue.*

## § 9-105.01. Relocation of Michigan Avenue authorized.

In order to relocate the line of Michigan Avenue from Franklin Street as laid down on the plan of the permanent system of highways for the District of Columbia to Lincoln Road, bordering the southeast corner of the grounds of the United States Soldiers' Home, and to straighten and shorten the route of said Avenue, the Mayor of the District of Columbia is authorized to close, vacate, and abandon the portion of Michigan Avenue known and designated as Parcel E on map filed in the Office of the Surveyor of the District of Columbia and numbered as Map 1429, containing 54,380 square feet, said part so closed, vacated, and abandoned to be transferred by said Mayor of the District of Columbia to the United States as part of the grounds of the United States Military Asylum, known as the United States Soldiers' Home.

(Mar. 4, 1929, 45 Stat. 1543, ch. 682, § 1.)

**Section references.** — This section is referenced in § 9-101.15 and § 9-105.04.

**Prior Codifications.** — 1981 Ed., § 7-127. 1973 Ed., § 7-127.

**Editor's notes.** — Extension and widening of Michigan Avenue: See the Act of April 22, 1932, 47 Stat. 135, ch. 133, §§ 1 to 5.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmen-

tal Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia,



respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-105.02. Use of part of Soldiers' Home for street purposes.

The Mayor of the District of Columbia is authorized to use for street purposes all that part of the United States Soldiers' Home grounds designated as Parcel A, containing 57,613 square feet, and Parcel B containing 11,870 square feet, as shown on map filed in the Office of the Surveyor of the District of Columbia and numbered as Map 1429; and the proper authorities having title, control, or jurisdiction are authorized to make the necessary transfer of said parcels of land to the District of Columbia for street purposes.

(Mar. 4, 1929, 45 Stat. 1543, ch. 682, § 2.)

**Prior Codifications.** — 1981 Ed., § 7-128. 1973 Ed., § 7-128.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-105.03. Portion of Michigan Avenue abandoned.

The Mayor of the District of Columbia is authorized to close, vacate, and abandon the portion of Michigan Avenue known and designated as Parcel D, containing 69,336 square feet, and Parcel H, containing 7,279 square feet, as shown on map filed in the Office of the Surveyor of the District of Columbia and numbered as Map 1429, title to said parcels so closed, vacated, and abandoned to revert in fee simple to the owner or owners of the parcel numbered on the assessment records of the District of Columbia as parcel 120/1, said closing of said street and the transfer of title thereto to be upon the condition and with the express stipulation that the owner or owners of said parcel 120/1 shall dedicate to the District of Columbia for street purposes all of the parcel known and designated as Parcel F, containing 43,161 square feet, as shown on map filed in the Office of the Surveyor of the District of Columbia and numbered as Map 1429 and shall further, in consideration of the increase in area of the property of said owner or owners of said parcel 120/1 by reason of the transfers as provided herein, dedicate to the District of Columbia about 36,000 square feet of land, the location of which shall be mutually agreed upon by the Mayor of the District of Columbia and the owner or owners of parcel 120/1, and that said owner or owners of said parcel 120/1 shall transfer to the United States as part of the grounds of the United States Military Asylum, known as the United States Soldiers' Home, all of the parcel known and designated as Parcel G, containing 1,543 square feet, as shown on said Map No. 1429 in the Office of

the Surveyor of the District of Columbia; provided, however, that the Board of Commissioners of the United States Soldiers' Home, or the proper authorities having title, control, or jurisdiction, shall transfer to the owner or owners of the parcel designated on the assessment and taxation records of the District of Columbia as parcel 120/1 all the land comprised within the parcel known and designated as Parcel C containing 4,517 square feet, as shown on map filed in the Office of the Surveyor of the District of Columbia and numbered as Map 1429.

(Mar. 4, 1929, 45 Stat. 1543, ch. 682, § 3.)

**Prior Codifications.** — 1981 Ed., § 7-129.  
1973 Ed., § 7-129.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-105.04. Plats showing relocation of Michigan Avenue.

The Surveyor of the District of Columbia is hereby authorized to prepare the necessary plat or plats showing all parcels of land to be transferred in accordance with the provisions of §§ 9-101.15 and 9-105.01 to 9-105.04, with a certificate affixed thereon to be signed by the parties in interest making the necessary transfers; which plat and certificate, after being signed by the various interested parties and approved by the Mayor of the District of Columbia, shall be recorded upon order of said Mayor in the Office of the Surveyor of the District of Columbia; and said plat or plats, when duly recorded in said Office of the Surveyor of the District of Columbia, shall constitute a legal transfer of title of the various parcels to the parties in interest according to the provisions contained in §§ 9-101.15 and 9-105.01 to 9-105.04.

(Mar. 4, 1929, 45 Stat. 1544, ch. 682, § 4.)

**Cross references.** — Recordkeeping, maps, charts, and surveys of streets and highways, see § 1-1306.

**Prior Codifications.** — 1981 Ed., § 7-130.  
1973 Ed., § 7-130.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.



*Subchapter IV. Federal-Aid Highway Projects.*

## PART A.

## GENERAL.

**§ 9-107.01. Authority to provide payments and services.**

For the purpose of enabling the District of Columbia to have its federal-aid highway projects approved under § 106 or 117 of Title 23, United States Code, the Mayor of the District of Columbia may, in connection with the acquisition of real property in the District of Columbia for any federal-aid highway project, provide the payments and services described in §§ 505, 506, 507, and 508 of Title 23, United States Code.

(Aug. 23, 1968, 82 Stat. 827, Pub. L. 90-495, § 23(d).)

**Cross references.** — Housing redevelopment, relocation assistance, see § 6-333.01.

**Prior Codifications.** — 1981 Ed., § 7-134. 1973 Ed., § 7-135.

**Emergency legislation.** — For temporary establishment, on an emergency basis due to Congressional review, the District of Columbia Highway Trust Fund to comply with the requirement for the creation of a dedicated highway fund mandated by the D.C. Emergency Highway Relief Act, see § 2 of the Highway Trust Fund Establishment Congressional Review Emergency Act of 1997 (D.C. Act 12-47, March 31, 1997, 44 DCR 2103).

For temporary authority of the Mayor to issue rules and regulations necessary to carry out the purposes of the act, see § 3 of the Highway Trust Fund Establishment Congressional Review Emergency Act of 1997 (D.C. Act 12-47, March 31, 1997, 44 DCR 2103).

**References in text.** — Sections 505, 506, 507, and 508 of Title 23, United States Code, referred to at the end of this section, related to relocation payments and assistance, and were a part of Chapter 5 of Title 23. That chapter was repealed January 2, 1971, by § 220(a)(10) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646.

**Editor's notes.** — Appropriations authorized: Public Law 103-334, 108 Stat. 2581, the District of Columbia Appropriations Act, 1995, provided for construction projects \$5,600,000, as authorized by §§ 34-2405.01 through 34-2405.08; §§ 34-2413.08 and 34-2413.10; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended:

Provided, That \$140,000 shall be available for project management and \$110,000 shall be available for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: Provided further, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1996, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1996: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

Appropriations authorized: Public Law 104-194, 110 Stat. 2362, the District of Columbia Appropriations Act, 1997, provided for construction projects an increase of \$46,923,000 (including an increase of \$34,000,000 for the highway trust fund, reallocations and rescissions for a net rescission of \$120,496,000 from local funds appropriated under this heading in prior fiscal years and an additional \$133,419,000 in Federal funds), as authorized by §§ 34-2405.01 through 34-2405.08; §§ 34-2413.08, 34-2413.10 and 34-2304; and §§ 10-



619 and 47-3404; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 9-107.01, note), for which funds are provided by this appropriation title, shall expire on September 30, 1998, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1998: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

Federal-Aid Highway Memorandum of Agreement Council Chairman Emergency Resolution of 1996: Pursuant to Resolution 11-374, effective June 4, 1996, Council directed, on an emergency basis, the Chairman, on behalf of the Council, to sign a memorandum of Agreement to Establish a Federal-Aid Highway Pilot Program at the Department of Public Works.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### CASE NOTES

##### **In general.**

Statutory provisions providing for public hearings as to design and location of any federally financed highway or bridge and as to economic and social effects of project were enacted primarily for benefit of local residents whose homes and lives might be affected by national highway construction project. 23 U.S.C. § 101

et seq. D. C. Federation of Civic Asso. v. Volpe, 434 F.2d 436, 1970 U.S. App. LEXIS 9973 (C.A.D.C. 1970).

Citizens have no constitutional right to vote on federally supported highway projects. D. C. Federation of Civic Asso. v. Volpe, 434 F.2d 436, 1970 U.S. App. LEXIS 9973 (C.A.D.C. 1970).

## **§ 9-107.02. Authority to pay public utility relocation expenses; definitions.**

(a) Notwithstanding any provisions of law to the contrary, whenever the Mayor of the District of Columbia shall determine that the construction or modification of a project, on or a part of the National System of Interstate and Defense Highways within the District of Columbia under Title 23 of the United States Code, necessitates the relocation, adjustment, replacement, removal, or abandonment of utility facilities, the utility owning such facilities shall relocate, adjust, replace, remove, or abandon the same, as the case may be. The cost of relocation, adjustment, replacement, or removal, and the cost of abandonment of such facilities, shall be paid to the utility by the District of Columbia, as a part of the cost of such project.

(b) As used in this section:

(1) The term "utility" means any gas plant, gas company, natural gas supplier, electric company, electricity supplier, telephone corporation, telephone line, telegraph corporation, telegraph line, and pipeline company,

whether publicly or privately owned, as those terms are defined in Chapter 2 of Title 34.

(2) The term “utility facility” means all real and personal property, buildings, and equipment owned or held by a utility in connection with the conduct of its lawful business.

(3) The term “cost of relocation, adjustment, replacement, or removal” means the entire amount paid by such utility properly attributable to such relocation, adjustment, replacement, or removal, as the case may be, less any increase in value on account of any betterment of the new utility facilities over the old utility facilities, and less any salvage value derived from the old utility facilities.

(4) The term “cost of abandonment” means the actual cost to abandon any utility facilities which are not to be used, relocated, adjusted, replaced, removed, or salvaged, together with the original cost of such abandoned facilities, less depreciation.

(Oct. 14, 1972, 86 Stat. 812, Pub. L. 92-495, § 4; May 9, 2000, D.C. Law 13-107, § 303, 47 DCR 1091; Mar. 16, 2005, D.C. Law 15-227, § 16, 51 DCR 10549.)

**Cross references.** — Housing redevelopment, relocation assistance, see § 6-333.01.

**Section references.** — This section is referenced in § 9-401.03.

**Prior Codifications.** — 1981 Ed., § 7-135.  
1973 Ed., § 7-135a.

**Effect of amendments.** — D.C. Law 15-227, in par. (1) of subsec. (b), substituted “gas company, natural gas supplier” for “gas corporation”.

D.C. Law 13-107, in par. (b)(1), substituted “company, electricity supplier” for “plant, electrical corporation”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 11 of Prevention of Unauthorized Switching of Customer Natural Gas Accounts Temporary Act of 2001 (D.C. Law 14-13, July 10, 2001, law notification 48 DCR 6589).

**Legislative history of Law 13-107.** — Law 13-107, the “Retail Electric Competition and Consumer Protection Act of 1999,” was introduced in Council and assigned Bill No. 13-284, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 7, 1999, and December 21, 1999, respectively. Signed by the Mayor on January 18, 2000, it was assigned Act No. 13-256 and transmitted to both Houses of Congress for its re-

view. D.C. Law 13-107 became effective on May 9, 2000.

**Legislative history of Law 15-227.** — Law 15-227, the “Retail Natural Gas Supplier Licensing and Consumer Protection Act of 2004,” was introduced in Council and assigned Bill No. 15-679, and was retained by Council. The Bill was adopted on first and second readings on July 13, 2004, and October 5, 2004, respectively. Signed by the Mayor on November 1, 2004, it was assigned Act No. 15-567 and transmitted to both Houses of Congress for its review. D.C. Law 15-227 became effective on March 16, 2005.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-107.03. Contract authority.

The Mayor of the District of Columbia is authorized to enter into contracts in connection with projects undertaken as federal-aid highway projects under the provisions of the Federal Aid Highway Act of 1944 in such amounts as shall

be approved by the Federal Highway Administration, Department of Transportation.

(Oct. 26, 1973, 87 Stat. 507, Pub. L. 93-140, § 15.)

**Prior Codifications.** — 1981 Ed., § 7-136. 1973 Ed., § 7-135b.

**References in text.** — The Federal Aid Highway Act of 1944, referred to near the middle of this section, was repealed by § 2(28) of the Act of August 27, 1958, 72 Stat. 919, Pub. L. 85-767.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia

Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-107.04. Grade crossing elimination projects.

The Mayor of the District of Columbia is authorized to construct grade crossing elimination and other wholly District construction projects or those authorized under § 8 of the Act of June 16, 1936 (49 Stat. 1521), and § 1(b) of the Federal Aid Highway Act of 1938, in accordance with the provisions of such acts. Pursuant to this authority, the Mayor may make payment to contractors and payment for other expenses in connection with the costs of surveys, design, construction, and inspection pending reimbursement to the District of Columbia by the Federal Highway Administration, Department of Transportation, or other parties participating in such projects.

(Oct. 26, 1973, 87 Stat. 507, Pub. L. 93-140, § 16.)

**Prior Codifications.** — 1981 Ed., § 7-137. 1973 Ed., § 7-135c.

**References in text.** — Section 8 of the Act of June 16, 1936 (49 Stat. 1521), and § 1(b) of the Federal Aid Highway Act of 1938, both referred to in the first sentence of this section, were repealed by § 2(19) and (21) of the Act of August 27, 1958, 72 Stat. 919, Pub. L. 85-767.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the Dis-

trict of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## PART B.

### TRANSPORTATION INFRASTRUCTURE IMPROVEMENT GARVEE BONDING FINANCING.

## § 9-107.51. Definitions.

For the purposes of this part, the term:

(1) "Authorized Signatory" means the Chief Financial Officer, the District of Columbia Treasurer, or any deputy mayor of the executive office of the



Mayor to whom the Mayor has delegated any of the Mayor's functions under this part pursuant to § 1-204.22(6).

(2) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Chief Financial Officer.

(3) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this part and § 1-204.90.

(4) "Chairman" means the Chairman of the Council of the District of Columbia.

(5) "Chief Financial Officer" means the Chief Financial Officer established pursuant to § 1-204.24(a)(1).

(6) "Closing Documents" means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the GARVEE Bonds, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) "Council" means the Council of the District of Columbia.

(8) "Debt Service" means payment of principal, premium, if any, and interest on the GARVEE Bonds.

(9) "District" means the District of Columbia.

(10) "Financing Documents" means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the GARVEE Bonds, including any offering document, and any required supplements to any such documents.

(11) "GARVEE" means grant anticipation revenue vehicle debt financing.

(12) "GARVEE Bonds" means bonds secured by GARVEE Revenues and issued to finance the Qualified Transportation Project.

(13) "GARVEE Revenues" means:

(A) Funds derived from the Federal Highway Administration and interest earnings derived from such funds; and

(B) Other investments, gifts, grants, contributions, appropriations, income, and any other amounts approved by Council resolution to be pledged to secure payment of GARVEE Bonds.

(14) "Home Rule Act" means Chapter 2 of Title 1 [§ 1-201.01 et seq.].

(15) "Mayor" means the Mayor of the District of Columbia.

(16) "Qualified Transportation Project" means the project to replace the twin 11th Street Bridges over the Anacostia River and to improve the interchanges at either end, including adding missing movements to and from the north onto the Anacostia Freeway. This project meets the eligibility requirements of the Federal Highway Administration as a permissible transportation expenditure under Title 23 of the Code of Federal Regulations.

(17) "Qualified Transportation Project Costs" means all costs incurred in the construction of the Qualified Transportation Project, including, without limitation:

(A) The purchase price or acquisition of any property or interest in those properties or other rights necessary or convenient for the project;

(B) Costs of the study, permitting, and engineering on the project,

including the preparation of plans and specifications, surveys, and estimates of cost;

(C) Costs of construction, reconstruction, paving, repaving, building, alteration, repair, restoration, environmental review or remediation, enlargement, or other improvement, including all labor, materials, machinery, fixtures, and equipment, including rolling stock or vehicles;

(D) Costs of engineering, architectural, legal, and other professional services;

(E) Costs of reserves, insurance, letters of credit, or other financial guarantees for payment of future Debt Service on the GARVEE Bonds; and

(F) All other costs or expenses necessary or convenient to the project, including the financing or refinancing of the project.

(Sept. 23, 2009, D.C. Law 18-54, § 2, 56 DCR 5694.)

**Legislative history of Law 18-54.** — Law 18-54, the “Transportation Infrastructure Improvements GARVEE Bond Financing Act of 2009”, was introduced in Council and assigned Bill No. 18-148, which was referred to the Committee on Public Works and Transportation. The bill was adopted on first and second

readings on June 2, 2009, and June 16, 2009, respectively. Signed by the Mayor on July 6, 2009, it was assigned Act No. 18-133 and transmitted to both Houses of Congress for its review. D.C. Law 18-54 became effective on September 23, 2009.

## § 9-107.52. Bond authorization.

(a) Pursuant to 1-204.90, the Council approves and authorizes the issuance of one or more series of GARVEE Bonds to fund the Qualified Transportation Project Costs of the Qualified Transportation Project; provided that:

(1) The aggregate principal amount of GARVEE Bonds that may be issued is the amount that can be supported by Debt Service equal to the annual GARVEE Revenues received by the District, but shall not exceed \$200 million;

(2) The GARVEE Bonds may be issued from time to time in one or more series;

(3) The GARVEE Bonds shall be tax-exempt or taxable as the Chief Financial Officer shall determine and shall be payable and secured as provided in s 9-107.54.

(b) The Mayor is authorized to pay from the proceeds of the GARVEE Bonds the costs and expenses of issuing and delivering the GARVEE Bonds, including, but not limited to, underwriting discount or fees, rating agency fees, legal fees, accounting fees, financial advisory fees, trustee and paying agent fees, collection agent fees, bond insurance, letters of credit and other credit enhancements, liquidity enhancements, and printing costs and expenses.

(Sept. 23, 2009, D.C. Law 18-54, § 3, 56 DCR 5694.)

**Legislative history of Law 18-54.** — For Law 18-54, see notes following § 9-107.51.

### **§ 9-107.53. Creation of the Transportation Infrastructure Improvement Fund.**

(a) There is established as a nonlapsing fund, separate and apart from the General Fund of the District of Columbia, the Transportation Infrastructure Improvement Fund. The Chief Financial Officer shall deposit into the Transportation Infrastructure Improvement Fund the GARVEE Revenues and any other funds specifically designated by statute for deposit in the Transportation Infrastructure Improvement Fund. All funds deposited into the Transportation Infrastructure Improvement Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(b) The Mayor may pledge and create a security interest in the funds in the Transportation Infrastructure Improvement Fund, or any sub-account or sub-accounts within the Transportation Infrastructure Improvement Fund, for the payment of the Debt Service on the GARVEE Bonds without further action by the Council as permitted by § 1-204.90(f), such payment to be made in accordance with the provisions of the Financing Documents entered into by the District in connection with the issuance of the GARVEE Bonds.

(Sept. 23, 2009, D.C. Law 18-54, § 4, 56 DCR 5694.)

**Legislative history of Law 18-54.** — For Law 18-54, see notes following § 9-107.51.

### **§ 9-107.54. Payment and security.**

(a) Except as may be otherwise provided in this part, the Debt Service on the GARVEE Bonds, and the payment of ongoing administrative expenses related to the GARVEE Bond financing, shall be payable solely from proceeds received from the sale of the GARVEE Bonds, income realized from the temporary investment of those proceeds, the GARVEE Revenues and any other receipts and revenues realized by the District and deposited into the Transportation Infrastructure Improvement Fund, and income realized from the temporary investment of the GARVEE Revenues and those other receipts and revenues prior to payment to the GARVEE Bond owners.

(b) Payment of the GARVEE Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the GARVEE Bond owners of certain of its rights under the Financing Documents and Closing Documents to the trustee for the GARVEE Bonds pursuant to the Financing Documents.

(c) The trustee or paying agent is authorized to deposit, invest, and disburse the proceeds received from the sale of the GARVEE Bonds pursuant to the Financing Documents.

(Sept. 23, 2009, D.C. Law 18-54, § 5, 56 DCR 5694.)



**Section references.** — This section is referenced in § 9-107.52.

**Legislative history of Law 18-54.** — For Law 18-54, see notes following § 9-107.51.

**§ 9-107.55. Bond details.**

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this part in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the GARVEE Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the GARVEE Bonds, including a determination that the GARVEE Bonds may be issued in certificated or book-entry form;

(2) The principal amount of the GARVEE Bonds to be issued and denominations of the GARVEE Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the GARVEE Bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the GARVEE Bonds, and the maturity date or dates of the GARVEE Bonds;

(5) The terms under which the GARVEE Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the GARVEE Bonds and the replacement of mutilated, lost, stolen, or destroyed GARVEE Bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the GARVEE Bonds;

(8) The time and place of payment of the GARVEE Bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the GARVEE Bonds to ensure that the proceeds are properly applied and used to accomplish the purposes of the Home Rule Act and this part;

(10) Actions necessary to qualify the GARVEE Bonds under blue sky laws of any jurisdiction where the GARVEE Bonds are marketed; and

(11) The terms and types of credit enhancement under which the GARVEE Bonds may be secured.

(b) The GARVEE Bonds shall contain a legend which shall provide that the GARVEE Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(c) The GARVEE Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary's manual or facsimile signature.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the GARVEE Bonds.

(e) The GARVEE Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee or

paying agent to be selected by the Chief Financial Officer, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to § 1-204.90(a)(4).

(f) The GARVEE Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

(g) The GARVEE Bonds are declared to be issued for essential public and governmental purposes. The GARVEE Bonds, the interest thereon, the income therefrom, and all funds pledged or available to pay or secure the payment of the GARVEE Bonds shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

(h) The District pledges, covenants, and agrees with the holders of the GARVEE Bonds that, subject to the provisions of the Financing Documents, the District will not limit or alter the GARVEE Revenues pledged to secure the GARVEE Bonds or the basis on which the GARVEE Revenues are collected or allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the GARVEE Bonds, will not in any way impair the rights or remedies of the holders of the GARVEE Bonds, and will not modify in any way the exemptions from taxation provided for in this part, until the GARVEE Bonds, together with interest thereon, and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the GARVEE Bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the GARVEE Bonds. This subsection constitutes a contract between the District and the holders of the GARVEE Bonds. To the extent that any acts or resolutions of the Council may be in conflict with this part, this part shall be controlling.

(i) Consistent with § 1-204.90(a)(4)(B) and notwithstanding Chapter 9 of Title 28:

(1) A pledge made and security interest created in respect of the GARVEE Bonds or pursuant to any related Financing Document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract, or otherwise against the District, whether or not such party has notice; and

(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.

(Sept. 23, 2009, D.C. Law 18-54, § 6, 56 DCR 5694.)

**Legislative history of Law 18-54.** — For Law 18-54, see notes following § 9-107.51.

## § 9-107.56. Issuance of the GARVEE Bonds.

(a) The GARVEE Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon

such terms that the Mayor or an Authorized Signatory considers to be in the best interests of the District.

(b) The Mayor or an Authorized Signatory may execute, in connection with each sale of the GARVEE Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the GARVEE Bonds being sold.

(c) The Mayor or an Authorized Signatory is authorized to deliver executed and sealed GARVEE Bonds, on behalf of the District, for authentication, and, after the GARVEE Bonds have been authenticated, to deliver the GARVEE Bonds to the original purchasers of the GARVEE Bonds upon payment of the purchase price.

(d) The GARVEE Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the GARVEE Bonds of such series and, if the interest on the GARVEE Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the GARVEE Bonds for purposes of federal income taxation.

(e) Chapter 3A of Title 2 [§ 2-351.01 et seq.] and subchapter III of Chapter 3 of Title 47 [§ 47-341 et seq. repealed], shall not apply to any contract the Mayor or the Chief Financial Officer may from time to time enter into, or the Mayor or the Chief Financial Officer may determine to be necessary or appropriate, for purposes of this part.

(Sept. 23, 2009, D.C. Law 18-54, § 7, 56 DCR 5694; Sept. 26, 2012, D.C. Law 19-171, § 223, 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted “Chapter 3A of Title 2” for “Unit A of Chapter 3 of Title 2 ” in (e).

**Legislative history of Law 18-54.** — For Law 18-54, see notes following § 9-107.51.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of

2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

## § 9-107.57. Financing and Closing Documents.

(a) The Mayor or the Chief Financial Officer is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the GARVEE Bonds.

(b) The Mayor or an Authorized Signatory is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor’s manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the GARVEE Bonds, the other Financing Documents, and the Closing Documents to which the District is a party.



(d) The Mayor's or the Authorized Signatory's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's or the Authorized Signatory's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor or an Authorized Signatory is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the GARVEE Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

(Sept. 23, 2009, D.C. Law 18-54, § 8, 56 DCR 5694.)

**Legislative history of Law 18-54.** — For Law 18-54, see notes following § 9-107.51.

### § 9-107.58. Limited liability.

(a) The GARVEE Bonds shall be special obligations of the District. The GARVEE Bonds shall be without recourse to the District. The GARVEE Bonds shall not be general obligations of the District, shall not be a pledge of, or involve, the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(b) The GARVEE Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the GARVEE Bonds.

(c) No person, including, but not limited to any GARVEE Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this part, the GARVEE Bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

(Sept. 23, 2009, D.C. Law 18-54, § 9, 56 DCR 5694.)

**Section references.** — This section is referenced in § 9-107.59.

**Legislative history of Law 18-54.** — For Law 18-54, see notes following § 9-107.51.

### § 9-107.59. District officials.

(a) Except as otherwise provided in § 9-107.58(c), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the GARVEE Bonds or be subject to any personal liability by reason of the issuance of the GARVEE Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District

contained in this part, the GARVEE Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the GARVEE Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the GARVEE Bonds, the Financing Documents, or the Closing Documents.

(Sept. 23, 2009, D.C. Law 18-54, § 10, 56 DCR 5694.)

**Legislative history of Law 18-54.** — For Law 18-54, see notes following § 9-107.51.

## § 9-107.60. Maintenance of documents.

Copies of the specimen GARVEE Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

(Sept. 23, 2009, D.C. Law 18-54, § 11, 56 DCR 5694.)

**Legislative history of Law 18-54.** — For Law 18-54, see notes following § 9-107.51.

## § 9-107.61. Information reporting.

(a) Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the GARVEE Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

(b) Within 12 months after September 23, 2009, and every 12 months thereafter, the Chief Financial Officer shall report to the Council on the amount of obligation per GARVEE Bond issued under this part, how the funds are committed within the 11th Street Bridge project, how each GARVEE bond is structured, and a statement of whether each GARVEE Bonds is structured in such a way as to count toward the District's 12% debt service cap.

(Sept. 23, 2009, D.C. Law 18-54, § 12, 56 DCR 5694.)

**Legislative history of Law 18-54.** — For Law 18-54, see notes following § 9-107.51.

## § 9-107.62. Authority of the Chief Financial Officer.

Notwithstanding any other provision of this part, the Mayor shall implement the provisions of this part in a manner consistent with the authority of the Chief Financial Officer under § 1-204.24d.

(Sept. 23, 2009, D.C. Law 18-54, § 13, 56 DCR 5694.)

**Legislative history of Law 18-54.** — For Law 18-54, see notes following § 9-107.51.

*Subchapter V. Emergency Highway Relief.***§ 9-109.01. District of Columbia emergency highway relief.**

(a) *Temporary Waiver of Non-Federal Share.* — Notwithstanding any other law, during fiscal years 1995 and 1996, the Federal share of the costs of an eligible project shall be a percentage requested by the District of Columbia, but not to exceed 100 percent of the costs of the project.

(b) *Eligible Projects.* — In this section, the term “eligible project” means a highway project in the District of Columbia:

(1) For which the United States:

(A) Is obligated to pay the Federal share of the costs of the project under Title 23, United States Code, on August 4, 1995; or

(B) Becomes obligated to pay the Federal share of the costs of the project under Title 23, United States Code, during the period beginning on August 4, 1995 and ending September 30, 1996;

(2) Which is:

(A) For a route proposed for inclusion on or designated as part of the National Highway System; or

(B) Of regional significance (as determined by the Secretary of Transportation); and

(3) With respect to which the District of Columbia certifies that sufficient funds are not available to pay the non-Federal share of the costs of the project.

(Aug. 4, 1995, 109 Stat. 257, Pub. L. 104-21, § 2.)

**Section references.** — This section is referenced in § 9-109.02.

**Prior Codifications.** — 1981 Ed., § 7-134.1.

**§ 9-109.02. Dedicated highway fund and repayment of temporary waiver amounts.**

(a) *Establishment of fund.* — Not later than December 31, 1995, the District of Columbia shall establish a dedicated highway fund to be comprised, at a minimum, of amounts equivalent to receipts from motor fuel taxes and, if necessary, motor vehicle taxes and fees collected by the District of Columbia to pay in accordance with this section the cost-sharing requirements established under Title 23, United States Code, and to repay the United States for increased Federal shares of eligible projects paid pursuant to § 9-109.01(a). The fund shall be separate from the general fund of the District of Columbia.

(b) *Payment of non-federal share.* — For fiscal year 1997 and each fiscal year thereafter, amounts in the fund shall be sufficient to pay, at a minimum, the cost-sharing requirements established under Title 23, United States Code, for such fiscal year.

(c) *Repayment requirements*

(1) *Fiscal year 1996.* — By September 30, 1996, the District of Columbia shall pay to the United States from amounts in the fund established under subsection (a) of this section, with respect to each project for which an



increased Federal share is paid in fiscal year 1995 pursuant to § 9-109.01(a), an amount equal to 50% the difference between:

(A) The amount of the costs of the project paid by the United States in such fiscal year pursuant to § 9-109.01(a); and

(B) The amount of the costs of the project that would have been paid by the United States but for § 9-109.01(a).

(2) *Fiscal year 1997.* — By September 30, 1997, the District of Columbia shall pay to the United States from amounts in the fund established under subsection (a) of this section, with respect to each project for which an increased Federal share is paid in fiscal year 1995 pursuant to § 9-109.01(a) and with respect to each project for which an increased Federal share is paid in fiscal year 1996 pursuant to § 9-109.01(a), an amount equal to 50% of the difference between:

(A) The amount of the costs of the project paid in such fiscal year by the United States pursuant to § 9-109.01(a); and

(B) The amount of the costs of the project that would have been paid by the United States but for § 9-109.01(a).

(3) *Fiscal year 1998.* — By September 30, 1998, the District of Columbia shall pay to the United States from amounts in the fund established under subsection (a) of this section, with respect to each project for which an increased Federal share is paid in fiscal year 1996 pursuant to § 9-109.01(a), an amount equal to 50% of the difference between:

(A) The amount of the costs of the project paid in such fiscal year by the United States pursuant to § 9-109.01(a); and

(B) The amount of the costs of the project that would have been paid by the United States but for § 9-109.01(a).

(4) *Deposit of repaid funds.* — Repayments made under paragraphs (1), (2) and (3) of this subsection with respect to a project shall be:

(A) Deposited in the Highway Trust Fund established by section 9503 of the Internal Revenue Code of 1986; and

(B) Credited to the appropriate account of the District of Columbia for the category of the project.

(d) *Enforcement.* — If the District of Columbia does not meet any requirement established by subsection (a), (b), or (c) of this section and applicable in a fiscal year, the Secretary of Transportation shall not approve any highway project in the District of Columbia under Title 23, United States Code, until the requirement is met.

(e) *Inspector General audit.* — Not later than February 1, 2001, and each February 1 thereafter, the Inspector General of the District of Columbia shall audit the financial statements of the District of Columbia Highway Trust Fund for the preceding fiscal year and shall submit to Congress, the Mayor, the Chief Financial Officer, and the Council a report on the results of such audit. Not later than March 15, 2011, and each March 15 thereafter, the Inspector General shall examine the statements forecasting the conditions and operations of the Trust Fund for the next 5 fiscal years commencing on the previous October 1 and shall submit to Congress, the Mayor, the Chief Financial Officer, and the Council a report on the results of such examination.

(Aug. 4, 1995, 109 Stat. 257, Pub. L. 104-21, § 3; Apr. 9, 1997, D.C. Law 11-255, § 17(a), 44 DCR 1271; Nov. 22, 2000, 114 Stat. 2440, Pub. L. 106-522, § 135; Apr. 8, 2011, D.C. Law 18-370, § 622, 58 DCR 1008.)

**Section references.** — This section is referenced in § 9-111.01 and § 9-111.01a.

**Prior Codifications.** — 1981 Ed., § 7-134.2.

**Effect of amendments.** — Section 135 of Public Law 106-522 rewrote subsec. (e), which previously read:

“GAO audit.—Not later than December 31, 1996, and each December 31 thereafter, the Comptroller General of the United States shall audit the financial condition and the operations of the fund established under this section and shall submit to Congress a report on the results of such audit and on the financial condition and the results of the operation of the fund during the preceding fiscal year and on the expected condition and operations of the fund during the next 5 fiscal years.”

D.C. Law 18-370, in subsec. (e), substituted “submit to Congress, the Mayor, the Chief Financial Officer, and the Council a report” for “submit to Congress a report”, and substituted “Not later than May 31, 2001, and each May 31 thereafter” for “Not later than March 15, 2011, and each March 15 thereafter”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 622 of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

**Legislative history of Law 11-255.** — Law 11-255, the “Second Technical Amendments Act

of 1996,” was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

**Legislative history of Law 18-370.** — Law 18-370, the “Fiscal Year 2011 Supplemental Budget Support Act of 2010”, was introduced in Council and assigned Bill No. 18-1100, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 27, 2011, it was assigned Act No. 18-721 and transmitted to both Houses of Congress for its review. D.C. Law 18-370 became effective on April 8, 2011.

**Short title.** — Short title: Section 621 of D.C. Law 18-370 provided that subtitle C of title VI of the act may be cited as “District Department of Transportation Omnibus Amendment Act of 2010”.

**Editor’s notes.** — Section 629 of D.C. Law 18-370 provided: “Sec. 629. Applicability. This subtitle shall apply as of October 1, 2011; except, that sections 622 and 623(a)(2) shall apply as of the effective date of this act.”

## § 9-109.03. Additional requirements.

(a) *Expeditious processing and execution of contracts.* — The District of Columbia shall expeditiously process and execute contracts to implement the Federal-aid highway program in the District of Columbia.

(b) *Revolving fund account.* — The District of Columbia shall establish an independent revolving fund account for Federal-aid highway projects. The account shall be separate from the capital account of the Department of Public Works of the District of Columbia and shall be reserved for the prompt payment of contractors completing highway projects in the District of Columbia under Title 23, United States Code.

(c) *Highway project expertise and resources.* — The District of Columbia shall ensure that necessary expertise and resources are available for planning, design, and construction of Federal-aid highway projects in the District of Columbia.

(d) *Programmatic reforms.* — The Secretary of Transportation, in consultation with the District of Columbia Financial Responsibility and Management Assistance Authority established pursuant to § 47-391.01(a), may require administrative and programmatic reforms by the District of Columbia to



ensure efficient management of the Federal-aid highway program in the District of Columbia.

(e) *GAO audit.* — The Comptroller General of the United States shall review implementation of the requirements of this section (including requirements imposed under subsection (d) of this section) and report to Congress on the results of such review not later than July 1, 1996.

(Aug. 4, 1995, 109 Stat. 259, Pub. L. 104-21, § 4; Apr. 9, 1997, D.C. Law 11-255, § 17(b), 44 DCR 1271.)

**Prior Codifications.** — 1981 Ed., § 7-134.3.

**Legislative history of Law 11-255.** — For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 9-109.02.

**Mayor's Orders.** — Establishment of Procedures and Amendment of Mayor's Orders to Expedite the Review, Award, and Execution of Federal-Aid Highway Project Contracts: See Mayor's Order 96-130, August 20, 1996 (43 DCR 4887).

## *Subchapter VI. Highway Trust Fund.*

### **§ 9-111.01. District of Columbia Highway Trust Fund.**

(a) There is established the District of Columbia Highway Trust Fund ("Fund").

(b) Except as provided in subsection (e) of this section, the monies in the Fund shall not be a part of, or lapse into, the General Fund of the District or any other fund of the District.

(c) The Mayor shall deposit into the Fund, on a monthly basis, an amount equivalent to all receipts from taxes, fees, civil fines and penalties collected by the District after September 30, 1995, pursuant to Chapter 23 of Title 47.

(d)(1) All monies in the Fund shall be used first to comply with the requirements of § 9-109.02.

(2) Repealed.

(3) As of October 1, 2011, all monies in the Fund designated to be used to comply with the requirements of § 9-109.02 shall not exceed 22% of the proposed annual federal-aid highway project expenditures.

(e)(1) Any excess monies remaining in the Fund after the requirements of § 9-109.02 have been met and remaining balances not necessary for the purposes outlined in Title 23 of the United States Code, based on the 6-year projected trust fund performance audit conducted by the Inspector General pursuant to § 9-109.02(e), shall be deposited into the Local Transportation Fund established by § 9-111.01a, and used exclusively for the purposes provided therein.

(2) The Mayor annually shall determine the excess amount based upon the audit of the Inspector General issued pursuant to § 9-109.02(e) and include the amount in the budget for the fiscal year beginning on October 1 of that year that is transmitted to the Council pursuant to § 1-204.42.

(Apr. 9, 1997, D.C. Law 11-184, § 102, 43 DCR 4265; Oct. 3, 2001, D.C. Law 14-28, § 1702(a),(b), 48 DCR 6981; Sept. 18, 2007, D.C. Law 17-20, § 6002(a), 54 DCR 7052; Apr. 8, 2011, D.C. Law 18-370, § 623(a), 58 DCR 1008; Sept. 14,



2011, D.C. Law 19-21, § 6053, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 6023(a), 59 DCR 8025.)

**Section references.** — This section is referenced in § 47-361 and § 50-921.02.

**Prior Codifications.** — 1981 Ed., § 7-134.4.

**Effect of amendments.** — D.C. Law 14-28 added subsec. (e) relating to excess monies.

D.C. Law 17-20, in subsec. (e), substituted “shall be deposited into the District Department of Transportation Unified Fund established by § 50-921.11” for “shall be deposited in the Local Roads Construction and Maintenance Fund established by § 9-111.01a”.

D.C. Law 18-370 rewrote subsecs. (d) and (e).

D.C. Law 19-21 repealed subsec. (d)(2), which formerly read:

“(2) All monies in the Fund designated to comply with the requirements of § 9-109.02 shall not exceed 22% of the proposed annual Fund expenditures.”

The 2012 amendment by D.C. Law 19-168 added (d)(3).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Highway Trust Fund Establishment Temporary Act of 1996 (D.C. Law 11-116, May 3, 1996, law notification 43 DCR 2707).

Section 3(a) of D.C. Law 19-97 added subsecs. (d)(2A) and (3) to read as follows:

“(2A) As of October 1, 2011, all monies in the Fund designated to comply with the requirements of section 3 of the District of Columbia Emergency Highway Relief Act, approved August 4, 1995 (109 Stat. 257; D.C. Official Code § 9-109.02), shall not exceed 22% of the proposed annual federal-aid highway project expenditures.”

“(3) As of October 1, 2011, all unobligated and unexpended revenues at the end of fiscal year 2011 that would have been deposited into the District Department of Transportation Unified Fund shall be deposited into the District of Columbia Highway Trust Fund.”

Section 6(b) of D.C. Law 19-97 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary addition of section, see § 2 of the Highway Trust Fund Establishment Emergency Act of 1995 (D.C. Act 11-169, December 8, 1995, 42 DCR 7069), § 2 of the Highway Trust Fund Establishment Congressional Review Emergency Act of 1996 (D.C. Act 11-223, March 7, 1996, 43 DCR 1418), and § 2 of the Highway Trust Fund Establishment Second Congressional Review Emergency Act of 1996 (D.C. Act 11-464, January 9, 1997, 44 DCR 620).

Section 3 of D.C. Act 11-169, § 3 of D.C. Act 11-223, and § 3 of D.C. Act 11-464 provided for the issuance by the Mayor of rules and regula-

tions necessary to carry out the purposes of the act.

For temporary (90 day) amendment of section, see § 1602(a), (b) of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

For temporary (90 day) amendment of section, see § 3502 of Fiscal Year 2003 Budget Support Emergency Act of 2002 (D.C. Act 14-453, July 23, 2002, 49 DCR 8026).

For temporary (90 day) amendment of section, see § 6002(a) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) amendment of section, see § 623(a) of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

For temporary (90 day) amendment of section, see § 3(a) of District Department of Transportation Omnibus Emergency Amendment Act of 2011 (D.C. Act 19-254, December 21, 2011, 58 DCR 11215).

**Legislative history of Law 11-184.** — Law 11-184, the “Highway Trust Fund Establishment Act and the Water and Sewer Authority Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-513, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on June 6, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 22, 1996, it was assigned Act No. 11-337 and transmitted to both Houses of Congress for its review. D.C. Law 11-184 became effective on April 9, 1997.

**Legislative history of Law 14-28.** — Law 14-28, the ‘Fiscal Year 2002 Budget Support Act of 2001’, was introduced in Council and assigned Bill No. 14-144, which was referred to the Committee Of the Whole. The Bill was adopted on first and second readings on May 1, 2001, and June 5, 2001, respectively. Signed by the Mayor on June 29, 2001, it was assigned Act No. 14-85 and transmitted to both Houses of Congress for its review. D.C. Law 14-28 became effective on October 3, 2001.

**Legislative history of Law 17-20.** — Law 14-28, the ‘Fiscal Year 2002 Budget Support Act of 2001’, was introduced in Council and assigned Bill No. 14-144, which was referred to the Committee Of the Whole. The Bill was adopted on first and second readings on May 1, 2001, and June 5, 2001, respectively. Signed by the Mayor on June 29, 2001, it was assigned Act No. 14-85 and transmitted to both Houses of Congress for its review. D.C. Law 14-28 became effective on October 3, 2001.

**Legislative history of Law 18-370.** — For history of Law 18-370, see notes under § 9-109.02.

**Legislative history of Law 19-21.** — Law 19-21, the ‘Fiscal Year 2012 Budget Support Act of 2011’, was introduced in Council and assigned Bill No. 19-203, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 25, 2011, and June 14, 2011, respectively. Signed by the Mayor on July 22, 2011, it was assigned Act No. 19-98 and transmitted to both Houses of Congress for its review. D.C. Law 19-21 became effective on September 14, 2011.

**Legislative history of Law 19-168.** — Law 19-168, the “Fiscal Year 2013 Budget Support Act of 2012,” was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its

review. D.C. Law 19-168 became effective on September 20, 2012.

**Short title.** — Short title of title I of Law 11-184: Section 101 of D.C. Law 11-184 provided that title I of the act may be cited as the Highway Trust Fund Establishment Act of 1996.

Short title: Section 6001 of D.C. Law 17-20 provided that subtitle A of title VI of the act may be cited as the “District Department of Transportation Unified Fund Amendment Act of 2007”.

**Editor’s notes.** — Section 629 of D.C. Law 18-370 provided: “Sec. 629. Applicability. This subtitle shall apply as of October 1, 2011; except, that sections 622 and 623(a)(2) shall apply as of the effective date of this act.”

Mayor authorized to issue rules: Section 103 of D.C. Law 11-184 provided that the Mayor may issue rules and regulations as the Mayor finds necessary to carry out the purposes of title I of the act pursuant to subchapter I of Chapter 5 of Title 2.

## § 9-111.01a. Local Transportation Fund.

(a) There is established the Local Transportation Fund, which shall be a segregated account within the General Fund of the District of Columbia and shall be funded by the Director of the District Department of Transportation and into which the Chief Financial Officer of the District of Columbia shall deposit:

- (1) Repealed;
- (2) All receipts from special purpose utility marking service fees;
- (3) All GARVEE bond proceeds; and
- (4) Repealed;

(5) As of October 1, 2011, all revenue derived from public rights-of-way user fees, charges, and penalties collected pursuant to subchapter III of Chapter 11 of Title 10 [§ 10-1141.01 et seq.] (“1997 act”), and regulations issued pursuant to the 1997 act in Chapter 33 of Title 24 of the District of Columbia Municipal Regulations; provided, that for fiscal year 2013, the first \$2.6 million collected shall be deposited into the General Fund of the District of Columbia.

(b) Fees deposited into the Local Transportation Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available exclusively for the renovation, repair, and maintenance of local transportation infrastructure including streets, alleys, sidewalks, curbs, gutters and streetlights that are not eligible for federal aid and mass transit.

(c) Repealed.

(c-1) As of October 1, 2011, revenue derived and collected pursuant to subsection (a)(5) of this section may be transferred annually to the District of Columbia Highway Trust Fund; provided, that in no event shall local monies in the fund designated to be used to comply with the requirements of



§ 9-109.02 exceed 22% of the proposed annual federal-aid highway project expenditures.

(d)(1) Beginning on October 1, 2003, and on October 1 of each year thereafter, the Mayor shall submit to the Council a plan for the use of all monies in the Local Transportation Fund for the following fiscal year.

(2) The proposed plan shall be submitted to the Council for approval, in whole or in part, by resolution for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the proposed plan has not been approved by the Council within the 45-day period, the proposed plan shall be deemed disapproved.

(3) Repealed.

(Apr. 9, 1997, D.C. Law 11-184, § 102a, as added Oct. 3, 2001, D.C. Law 14-28, § 1702(c), 48 DCR 6981; Nov. 13, 2003, D.C. Law 15-39, § 622(a), 50 DCR 5668; Apr. 13, 2005, D.C. Law 15-354, § 84(e), 52 DCR 2638; Oct. 20, 2005, D.C. Law 16-33, § 6022(a), 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 6023, 53 DCR 6899; Sept. 18, 2007, D.C. Law 17-20, § 6002(b), 54 DCR 7052; Mar. 25, 2009, D.C. Law 17-353, § 140, 56 DCR 1117; Apr. 8, 2011, D.C. Law 18-370, § 623(b), 58 DCR 1008; Sept. 20, 2012, D.C. Law 19-168, § 6023(b), 59 DCR 8025.)

**Section references.** — This section is referenced in § 9-111.01 and § 50-2607.

**Effect of amendments.** — D.C. Law 15-39, in subsec. (a), substituted “Department of Transportation” for “Department of Public Works’ Division of Transportation”; and added subsecs. (c) and (d).

D.C. Law 15-354 validated a previously made technical correction.

D.C. Law 16-33, in subsec. (a), substituted “or any other regulations, 50% of the proceeds of sales and use tax collected by the District for parking and storing vehicles,” for “or any other regulations,”; and repealed subsecs. (c) and (d)(3).

D.C. Law 16-192 rewrote subsec. (a).

D.C. Law 17-20 rewrote subsec. (a).

D.C. Law 17-353 validated a previously made technical correction in subsec. (a).

D.C. Law 18-370 rewrote the section heading which had read: “Local Roads Construction and Maintenance Fund.”; in subsec. (a), substituted “Local Transportation Fund” for “Local Roads Construction and Maintenance Fund (‘Maintenance Fund’)” and substituted “and into which the Chief Financial Officer of the District of Columbia shall deposit: (1) All receipts from special purpose public inconvenience fees; (2) All receipts from special purpose utility marking service fees; (3) All GARVEE bond proceeds; and (4) All charges imposed for rental and utilization of public space authorized by subchapter I of Chapter 11 of Title 10” for “from funds on deposit within the District Department of Transportation Unified Fund”;

in subsec. (b), substituted “Maintenance Fund” for “Local Transportation Fund” and substituted “federal aid and mass transit” for “federal aid”; and, in subsec. (d)(1), substituted “Local Transportation Fund” for “Local Roads Construction and Maintenance Fund”.

The 2012 amendment by D.C. Law 19-168 repealed (a)(1), which read: “All receipts from special purpose public inconvenience fees”; repealed (a)(4), which read: “All charges imposed for rental and utilization of public space authorized by § 10-1101.01 et seq.”; and added (a)(5) and (c-1).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Highway Trust Fund and District Department of Transportation Temporary Amendment Act of 2005 (D.C. Law 16-66, March 8, 2006, law notification 53 DCR 2516).

Section 3(b) of D.C. Law 19-97 amended subsec. (a)(4) and added subsec. (c-1) to read as follows:

“(4) As of October 1, 2011, all revenue derived from public rights-of-way user fees, charges, and penalties collected under authority of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 10-1141.01 et seq.), and regulations promulgated pursuant thereto in Chapter 33 of Title 24 of the District of Columbia Municipal Regulations, as now existing or as hereafter amended.”

“(c-1) As of October 1, 2011, revenue derived and collected pursuant to subsection (a)(4) of this section may be transferred annually to the



District of Columbia Highway Trust Fund, but in no event shall all local monies in the fund designated to comply with the requirements of section 3 of the District of Columbia Emergency Highway Relief Act, approved August 4, 1995 (109 Stat. 257; D.C. Official Code § 9-109.02), exceed 22% of the proposed annual federal-aid highway project expenditures.”

Section 6(b) of D.C. Law 19-97 provided that the act shall expire after 225 days of its having taken effect.

**Temporary Addition of Section.** — Sections 2 to 5 of D.C. Law 19-34 added sections to read as follows:

“Sec. 2. Definitions.

“For the purposes of this act, the term:

“(1) ‘CFO’ means the Chief Financial Officer.

“(2) ‘Director of Capital Programs’ means the Director of Capital Programs within the Office of Budget and Planning of the Office of the Chief Financial Officer.

“(3) ‘Local Streets Ward-based capital projects’ means the Department of Transportation’s 8 Local Streets Ward-Based capital projects (Project No. SR301-SR308) that endeavor to preserve, maintain, repair, or replace the District’s sidewalks, curbs, and local roads.

“(4) ‘Inactive’ means that no non-personal service funds have been obligated or expended for the capital project during the preceding calendar months.

“Sec. 3. Criteria for closing capital projects.

“(a) For any capital project funded from revenues in the Local Transportation Fund, the CFO, in consultation with the Mayor, may close the project if it:

“(1) Has obligated or expended funds in excess of its approved budget; or

“(2) Has been inactive for 12 months or more.

“(b) For any capital project funded from revenues in the Highway Trust Fund, the CFO, in consultation with the Mayor and the Federal Highway Administration Division, may close the project if it:

“(1) Has been closed by the United States Department of Transportation;

“(2) Has an open balance of:

“(A) An amount of \$500,000 or more, and has been inactive for 12 months;

“(B) Between \$50,000 and \$499,999, and has been inactive for 24 months; or

“(C) Less than \$50,000, and has been inactive for 36 months; or

“(3) Has obligated or expended funds in excess of its approved budget.

“(c) If a capital project has a budget allotment in excess of its budget authority, the CFO, in consultation with the Mayor, may adjust the allotment to match the correct budget authority.

“(d) The CFO may delegate the authority granted to him or her by this section to the Director of Capital Programs.

“Sec. 4. Use of funds resulting from closure.

“(a) Funds resulting from the closure of capital projects pursuant to section 3(a) shall be allocated equally among the Local Streets Ward-based capital projects.

“(b) Funds resulting from the closure of capital projects pursuant to section 3(b) shall be allocated to the capital projects approved by the Council of the District of Columbia in the Fiscal Year 2012 Budget Request Act of 2011, signed by the Mayor on June 29, 2011 (D.C. Act 19-92; 58 DCR 5564).

“Sec. 5. Quarterly summary.

“The CFO shall submit to the Mayor and the Council a quarterly summary of all capital project closures conducted pursuant to this act.”

Section 7(b) of D.C. Law 19-34 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 1602(c) of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001 (48 DCR 7861).

For temporary (90 day) amendment of section, see § 622(a) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 622(a) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

For temporary (90 day) local roads construction and maintenance fund provisions, see § 6052 of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) local roads construction and maintenance fund provisions, see § 6052 of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

For temporary (90 day) amendment of section, see § 6022(a) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2 of Highway Trust Fund and District Department of Transportation Emergency Amendment Act of 2005 (D.C. Act 16-206, November 17, 2005, 52 DCR 10524).

For temporary (90 day) amendment of section, see § 2 of Highway Trust Fund and District Department of Transportation Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-281, February 27, 2006, 53 DCR 1628).

For temporary (90 day) amendment of section, see § 6023 of Fiscal Year 2007 Budget

Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 2 of Highway Trust Fund and District Department of Transportation Second Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-498, October 23, 2006, 53 DCR 8842).

For temporary (90 day) amendment of section, see § 6023 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 6023 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 2 of Highway Trust Fund and District Department of Transportation Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-7, January 16, 2007, 54 DCR 1463).

For temporary (90 day) amendment of section, see § 6002(b) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) amendment of section, see § 623(b) of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

For temporary (90 day) addition of sections, see §§ 2 to 5 of District Department of Transportation Capital Project Review and Reconciliation Emergency Act of 2011 (D.C. Act 19-96, July 11, 2011, 58 DCR 5820).

For temporary (90 day) amendment of section, see § 3(b) of District Department of Transportation Omnibus Emergency Amendment Act of 2011 (D.C. Act 19-254, December 21, 2011, 58 DCR 11215).

**Legislative history of Law 14-28.** — For D.C. Law 14-28, see notes following § 9-111.01.

**Legislative history of Law 15-39.** — Law 15-39, the “Fiscal Year 2004 Budget Support Act of 2003”, was introduced in Council and assigned Bill No. 15-218, which was referred to Committee on Whole. The Bill was adopted on first and second readings on May 6, 2003, and June 3, 2003, respectively. Signed by the Mayor on June 20, 2003, it was assigned Act No. 15-106 and transmitted to both Houses of Congress for its review. D.C. Law 15-39 became effective on November 13, 2003.

**Legislative history of Law 15-354.** — Law 15-354, the “Technical Amendments Act of 2004”, was introduced in Council and assigned Bill No. 15-1130 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively.

Signed by the Mayor on February 9, 2005, it was assigned Act No. 15-770 and transmitted to both Houses of Congress for its review. D.C. Law 15-354 became effective on April 13, 2005.

**Legislative history of Law 16-33.** — Law 16-33, the “Fiscal Year 2006 Budget Support Act of 2005”, was introduced in Council and assigned Bill No. 16-200 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 2005, and June 21, 2005, respectively. Signed by the Mayor on July 26, 2005, it was assigned Act No. 16-166 and transmitted to both Houses of Congress for its review. D.C. Law 16-33 became effective on October 20, 2005.

**Legislative history of Law 16-192.** — For Law 16-192, see notes following § 50-323.

**Legislative history of Law 17-20.** — For Law 17-20, see notes following § 9-111.01.

**Legislative history of Law 17-353.** — Law 17-353, the “Technical Amendments Act of 2008”, was introduced in Council and assigned Bill No. 17-994 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 15, 2009, it was assigned Act No. 17-687 and transmitted to both Houses of Congress for its review. D.C. Law 17-353 became effective on March 25, 2009.

**Legislative history of Law 18-370.** — For history of Law 18-370, see notes under § 9-109.02.

**Legislative history of Law 19-168.** — See note to § 9-111.01.

**Short title.** — Short title of subtitle C of title VI of Law 15-39: Section 621 of D.C. Law 15-39 provided that subtitle C of title VI of the act may be cited as the Local Roads Construction and Maintenance Fund Amendment Act of 2003.

Short title of subtitle F of Law 15-205: Section 6051 of D.C. Law 15-205 provided that subtitle F of the act may be cited as the Local Roads Construction and Maintenance Fund Act of 2004.

Short title of subtitle C of title VI of Law 16-33: Section 6021 of D.C. Law 16-33 provided that subtitle C of title VI of the act may be cited as the Local Roads Construction and Maintenance Fund Amendment Act of 2005.

Short title: Section 6021 of D.C. Law 16-192 provided that subtitle C of title VI of the act may be cited as the “Public Rights-of-Way Occupancy Fees Amendment Act of 2006”.

**Resolutions.** — Resolution 15-467, the “Local Roads Construction and Maintenance Fund Approval Resolution of 2004”, was approved effective March 2, 2004.

**Editor's notes.** — Section 6052 of D.C. Law 15-205 provided: “For fiscal year 2005 the Chief Financial Officer shall include the General Ob-



ligation Bond funded local roads capital obligations within the calculation of the non-special purpose local funds obligated to meet the requirements of section 102a(c)(1) of the Highway Trust Fund Establishment Act of 1986, effective November 13, 2003. (D.C. Law 15-39); D.C. Official Code § 9-111.01a(c)(1): Provided that for fiscal year 2005 revenues identified as Local Roads Construction and Maintenance Fund—dedicated revenue (D.C. Official Code § 9-

111.01b) shall be dedicated only at the amount authorized as the Department of Transportation's fiscal year 2005 operating budget and any additional revenues shall be for general fund purposes."

Section 629 of D.C. Law 18-370 provided: "Sec. 629. Applicability. This subtitle shall apply as of October 1, 2011; except, that sections 622 and 623(a)(2) shall apply as of the effective date of this act."

## § 9-111.01b. Local Roads Construction and Maintenance Fund; dedicated revenue.

Repealed.

(Apr. 9, 1997, D.C. Law 11-184, § 102b, as added Nov. 13, 2003, D.C. Law 15-39, § 622(b), 50 DCR 5668; Mar. 13, 2004, D.C. Law 15-105, § 9, 51 DCR 881; Oct 20, 2005, D.C. Law 16-33, § 6022(b), 52 DCR 7503)

**Emergency legislation.** — For temporary (90 day) addition of § 9-111.01b, see § 622(b) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of § 9-111.01b, see § 2 of Fiscal Year 2004 Budget Support Act of 2003 Department of Transportation Funding Clarification Emergency Amendment Act of 2003 (D.C. Act 15-138, July 29, 2003, 50 DCR 6863).

For temporary (90 day) addition of § 9-111.01b, see § 622(b) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

For temporary (90 day) repeal of section, see

§ 6022(b) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 9-111.01a.

**Legislative history of Law 15-105.** — Law 15-105, the "Technical Amendments Act of 2003", was introduced in Council and assigned Bill No. 15-437, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 2003, and December 2, 2003, respectively. Signed by the Mayor on January 6, 2004, it was assigned Act No. 15-291 and transmitted to both Houses of Congress for its review. D.C. Law 15-105 became effective on March 13, 2004.

## § 9-111.01c. Cost-transfer projects.

(a) For the purposes of this section, the term:

(1) "Additive rate" means the rate used to represent labor surcharges as a percent of direct labor costs.

(2) "Indirect cost" means a cost incurred for a common or joint purpose benefiting more than one project that is not readily assignable to a project specifically benefitted.

(3) "Indirect cost rate" means a method for determining in a reasonable manner the proportion of indirect costs each project should bear.

(4) "Labor surcharges" means the cost of employee fringe benefits, worker compensation insurance, leave, and similar labor-related costs.

(b) There is established the following cost-transfer projects within the District Department of Transportation capital budget, which shall be used to collect labor surcharges and indirect costs that are recoverable with federally approved indirect and additive rates:

(1) A labor cost-transfer project, which shall collect indirect labor costs



and labor surcharges that cannot be directly charged to capital projects due to federal and local regulation, but are eligible for indirect and additive rate recovery; and

(2) An administrative cost-transfer project, which shall collect indirect material testing contract costs, Davis Bacon costs, the production costs of manuals and other administrative Federal Highway Administration support costs, as approved by the Chief Financial Officer of the District of Columbia, that are eligible for federal reimbursement.

(c) The labor cost-transfer project shall not be authorized any funds from the budget.

(d) The administrative cost-transfer project shall be allocated budget authority for contractual services.

(e) All expenditures posted to the transfer projects during a fiscal year shall be reallocated to active projects based on approved indirect cost and additive rates, reallocated to the operating budget, or otherwise removed from the cost-transfer projects by the end of that fiscal year.

(f) Beginning October 1, 2012, the Mayor shall submit to the Council, on a quarterly basis, a report certified by the Chief Financial Officer of the District of Columbia that:

(1) Provides the current cost-transfer project expenditure balances;

(2) Lists the projects or accounts to which any transfer project expenditures have effectively been charged or moved; and

(3) Identifies the amount charged or moved.

(Apr. 9, 1997, D.C. Law 11-184, § 102c, as added Sept. 20, 2012, D.C. Law 19-168, § 6023(c), 59 DCR 8025.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-168 added this section. **Legislative history of Law 19-168.** — See note to § 9-111.01.

### *Subchapter VI-A. Fund Reporting Requirement.*

## **§ 9-111.31. Reporting requirements.**

(a) On November 1st of each year, the Mayor shall submit to the Council a report on all District of Columbia Highway Trust Fund and Local Transportation Fund expenditures for the previous fiscal year. The report shall include, but not be limited to, the following:

(1) The number and location of each street, alley, sidewalk, curb, gutter and streetlight renovated, repaired, or maintained during the past fiscal year; and

(2) The amount of the expenditure for each project.

(b) Repealed.

(Oct. 3, 2001, D.C. Law 14-28, § 1704, 48 DCR 6981; Oct. 1, 2002, D.C. Law 14-190, § 3602, 49 DCR 6968; Nov. 13, 2003, D.C. Law 15-39, § 623, 50 DCR 5668; Mar. 13, 2004, D.C. Law 15-105, § 41, 51 DCR 881; Apr. 13, 2005, D.C.

Law 15-354, §§ 84(f), 91, 52 DCR 2638; Apr. 8, 2011, D.C. Law 18-370, § 624, 58 DCR 1008.)

**Effect of amendments.** — Law 14-190, in subsec. (b), substituted “November 1st” for “February 1st”.

D.C. Law 15-39 deleted the subsection designation (a); and repealed subsec. (b). Prior to repeal, subsec. (b) had read as follows: “(b) On November 1st of each year, the Mayor shall submit to the Council a plan for the use of all funds in the Highway Trust Fund and Local Roads Construction and Maintenance Fund for the upcoming fiscal year.”

D.C. Law 15-105 validated previously made technical corrections.

D.C. Law 15-354, in subsec. (b), validated a previously made technical correction.

D.C. Law 18-370, in subsec. (a), substituted “District of Columbia Highway Trust Fund and Local Transportation Fund” for “Highway Trust Fund and Local Roads Construction and Maintenance Fund”.

**Emergency legislation.** — For temporary (90 day) addition of section, see § 1604 of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

For temporary (90 day) amendment of section, see § 623 of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 623 of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

For temporary (90 day) amendment of section, see § 624 of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

**Legislative history of Law 14-190.** — Law 14-190, the “Fiscal Year 2003 Budget Support Act of 2002”, was introduced in Council and assigned Bill No. 14-609, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 7, 2002, and June 4, 2002, respectively. Signed by the Mayor on July 3, 2002, it was assigned Act No. 14-403 and transmitted to both Houses of Congress for its review. D.C. Law 14-190 became effective on October 1, 2002.

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 9-111.01a.

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 9-111.01b.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 9-111.01a.

**Legislative history of Law 18-370.** — For history of Law 18-370, see notes under § 9-109.02.

**Short title.** — Short title of title XXXVI of Law 14-190: Section 3601 of D.C. Law 14-190 provided that title XXXVI of the act may be cited as the Highway Trust Fund Amendment Act of 2002.

**Editor’s notes.** — Section 629 of D.C. Law 18-370 provided: “Sec. 629. Applicability. This subtitle shall apply as of October 1, 2011; except, that sections 622 and 623(a)(2) shall apply as of the effective date of this act.”

## *Subchapter VII. Repealed Provisions.*

### **§ 9-113.01. Abutment of Highway Bridge. [Repealed].**

Repealed.

(Apr. 3, 1930, 46 Stat. 139, § 8; Mar. 10, 1983, D.C. Law 4-201, § 725, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-103.

**Legislative history of Law 4-201.** — Law 4-201, the “Street and Alley Closing and Acquisition Procedures Act of 1982,” was introduced in Council and assigned Bill No. 4-341, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was

adopted on first and second readings on November 16, 1982, and December 14, 1982, respectively. Signed by the Mayor on December 28, 1982, it was assigned Act No. 4-285 and transmitted to both Houses of Congress for its review.

**§ 9-113.02. Boundaries of public highways to be permanently marked. [Repealed].**

Repealed.

(R.S., D.C., § 249; Mar. 10, 1983, D.C. Law 4-201, § 709, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-105. torical and Statutory Notes following § 9-113.01.  
**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

**§ 9-113.03. Council may change names of streets when 2 streets have same name. [Repealed].**

Repealed.

(June 30, 1898, 30 Stat. 532; Mar. 10, 1983, D.C. Law 4-201, § 702, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-106. torical and Statutory Notes following § 9-113.01.  
**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

**§ 9-113.04. Acceptance of dedicated streets; building restriction lines; right-of-way for sewers and water mains. [Repealed].**

Repealed.

(May 31, 1900, 31 Stat. 248, § 2; Mar. 10, 1983, D.C. Law 4-201, § 713, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-117. torical and Statutory Notes following § 9-113.01.  
**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

**§ 9-113.05. Council to close certain streets, roads or highways in the District rendered useless or unnecessary by the highway plan — Consent of owners. [Repealed].**

Repealed.

(Jan. 30, 1925, 43 Stat. 799, ch. 116, § 1; Mar. 10, 1983, D.C. Law 4-201, § 722, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., §§ 7-123, 7-124. legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-113.01.  
**Legislative history of Law 4-201.** — For

**§ 9-113.06. Plat to be files — Assessment. [Repealed].**

Repealed.



(Jan. 30, 1925, 43 Stat. 800, ch. 116, § 2; Mar. 10, 1983, D.C. Law 4-201, § 722, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., §§ 7-123, 7-124, legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-113.01.  
**Legislative history of Law 4-201.** — For

*Subchapter VIII. Council Review of the Planned Use of Klingle Road, N.W.*

PART A.

COUNCIL REVIEW.

§ 9-115.01. Plan for future use of Klingle Road.

No later than December 31, 2002, the Mayor shall transmit to the Council, by resolution, a plan for the future use of Klingle Road, N.W.

(Oct. 1, 2002, D.C. Law 14-190, § 3502, 49 DCR 6968.)

**Emergency legislation.** — For temporary (90 day) addition of section, see §§ 3402 and 3403 of Fiscal Year 2003 Budget Support Emergency Act of 2002 (D.C. Act 14-453, July 23, 2002, 49 DCR 8026).

**Legislative history of Law 14-190.** — Law 14-190, the “Fiscal Year 2003 Budget Support Act of 2002”, was introduced in Council and

assigned Bill No. 14-609, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 7, 2002, and June 4, 2002, respectively. Signed by the Mayor on July 3, 2002, it was assigned Act No. 14-403 and transmitted to both Houses of Congress for its review. D.C. Law 14-190 became effective on October 1, 2002.

§ 9-115.02. Expenditure of funds for Klingle Road.

Notwithstanding any other provision of law, no capital program of federal highway aid projects, federal-aid highway contract, or funds from any source may be expended for Klingle Road, N.W., for any purpose except to facilitate the movement of motor vehicle traffic until a resolution has been transmitted to and approved by the Council authorizing the proposed use. This section shall not preclude critically needed remediation work including, but not limited to, repair to the storm sewer system and protections against further erosion of the roadbed.

(Oct. 1, 2002, D.C. Law 14-190, § 3503, 49 DCR 6968.)

**Emergency legislation.** — For temporary (90 day) addition of section, see §§ 3402 and 3403 of Fiscal Year 2003 Budget Support Emergency Act of 2002 (D.C. Act 14-453, July 23, 2002, 49 DCR 8026).

**Legislative history of Law 14-190.** — For Law 14-190, see notes following § 9-115.01.

## PART B.

## KLINGLE ROAD RESTORATION.

## § 9-115.11. Re-opening of Klingle Road.

Notwithstanding any other law, the portion of Klingle Road, N.W., between Porter Street, N.W., on the east, to Cortland Place, N.W., on the west, which portion is currently closed to motor vehicle traffic, shall not be re-opened to the public for motor vehicle traffic. No funding, District, federal, or otherwise, shall be expended or accepted for the planning, design, construction, or reconstruction of this portion of Klingle Road for motor vehicle traffic.

(Nov. 13, 2003, D.C. Law 15-39, § 2402, 50 DCR 5668; Aug. 16, 2008, D.C. Law 17-219, § 6017, 55 DCR 7598.)

**Cross references.** — District of Columbia administration, employment practices of contractors, First Source requirements, “beneficiary” and “government-assisted project” defined, see § 2-219.01.

**Effect of amendments.** — D.C. Law 17-219 rewrote the section which had read as follows: “The portion of Klingle Road, N.W., between Porter Street, N.W., on the east to Cortland Place, N.W., on the west shall be re-opened to the public for motor vehicle traffic, with the repair and reconstruction of Klingle Road, which shall include the establishment of a District Department of Transportation storm water management plan, to commence no later than 180 days following November 13, 2003.”

**Emergency legislation.** — For temporary (90 day) addition, see § 2302 of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) addition, see § 2302 of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 9-111.01a.

**Legislative history of Law 17-219.** — Law 17-219, the “Fiscal Year 2009 Budget Support Act of 2008”, was introduced in Council and assigned Bill No. 17-678, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 13, 2008, and June 3, 2008, respectively. Signed by the Mayor on June 26, 2008, it was assigned Act No. 17-419 and transmitted to both Houses of Congress for its review. D.C. Law 17-219 became effective on August 16, 2008.

**Short title.** — Short title of title XXIV of Law 15-39: Section 2401 of D.C. Law 15-39 provided that title XXIV of the act may be cited as the Klingle Road Restoration Act of 2003.

Short title: Section 6016 of D.C. Law 17-219 provided that subtitle F of title VI of the act may be cited as the “Klingle Road Sustainable Development Amendment Act of 2008”.

**Editor’s notes.** — For specified funding for Klingle Road, see sections 6018 and 6019 of Law 17-219.

## TRANSPORTATION SYSTEMS

### CHAPTER 2. STREET AND ALLEY CLOSING AND ACQUISITION PROCEDURES.

#### UNIT A. STREET AND ALLEY CLOSINGS

##### *Subchapter I. Definitions*

Sec.

9-201.01. Definitions.

##### *Subchapter II. Street and Alley Closing Procedures*

- 9-202.01. Authority of the Council.  
9-202.02. Actions required of Mayor prior to consideration of application.  
9-202.03. Exceptions from requirement of referral of application to National Capital Planning Commission.  
9-202.04. Public hearing required.  
9-202.05. Inapplicability of § 9-202.04.  
9-202.06. Duties of applicant; Mayor to make available signs and prescribe format for written notice.  
9-202.07. Publication of notice of hearing; written notice to involved advisory neighborhood commission.  
9-202.08. Disposition of property; use of money received therefrom.  
9-202.09. Approval subject to contingencies; relocation assistance.  
9-202.10. Required notice of approval to affected property owners.  
9-202.11. Judicial proceeding upon filing of objection; damages.  
9-202.12. Recordation of closing act and Surveyor's plat; effects of recordation.  
9-202.13. Disposition of closing act and plat.  
9-202.14. Fee schedule.  
9-202.15. Mayor to issue procedures for review by agencies and public utilities.

##### *Subchapter III. New Streets or Alleys*

- 9-203.01. Scope of Mayor's authority.  
9-203.02. Methods of acquisition.  
9-203.03. Council acceptance of land dedication.  
9-203.04. Minor streets.  
9-203.05. Area between property line and building restriction line.  
9-203.06. Improvement of street — Prerequisites.  
9-203.07. Improvement of streets — Rules.  
9-203.08. Submission of highway plan.  
9-203.09. Official street map; periodic publication; contents; availability.

#### *Subchapter IV. Public Space Names and Commemorative Works*

##### PART A

##### Naming of Public Space

Sec.

- 9-204.01. Scope of Council's authority.  
9-204.02. System of designations.  
9-204.03. Alleys.  
9-204.03a. Symbolic names.  
9-204.04. Duplicative names prohibited.  
9-204.05. Use of living persons' names prohibited; use of deceased persons' names restricted.  
9-204.06. Extent of name to be used; use on street signs.  
9-204.07. Submission of bill to involved advisory neighborhood commission.  
9-204.08. Proposal to name or rename to be submitted to affected property owners.  
9-204.09. Rights of certain boards preserved.

##### PART B

##### Commemorative Works

- 9-204.11. Definitions.  
9-204.12. Commemorative Works Committee.  
9-204.13. Authority of the Committee.  
9-204.14. Applications for commemorative works.  
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9-204.16. Easements for commemorative works.  
9-204.17. Issuance of permits.  
9-204.18. Deposit for maintenance of commemorative work.  
9-204.19. Expiration of approval of commemorative work.

##### *Subchapter V. [Reserved]*

9-205.01. [Reserved].

##### *Subchapter VI. Miscellaneous Provisions*

- 9-206.01. Validity of condemnations or closings pursuant to repealed law not affected.  
9-206.02. Authority to issue rules.

#### UNIT B. REPEALED PROVISIONS

9-221.01 to 9-221.10. [Repealed].



## Unit A. Street and Alley Closings.

*Subchapter I. Definitions.*

## § 9-201.01. Definitions.

For purposes of this chapter the term:

(1) “Alley” means any public alley, as recorded in the records of the Office of the Surveyor, from its intersection with a street or another alley to its next intersection with a street or alley, or where it dead-ends.

(2) “Council” means the Council of the District of Columbia.

(2A) “DDOT” means the District Department of Transportation.

(3) “District” means the District of Columbia government.

(4) “Highway plan” means the plan of the permanent system of highways developed pursuant to § 9-103.01 et seq.

(5) “Mayor” means the Mayor of the District of Columbia, or the Mayor’s designated representative.

(6) “Owner” means the owner(s) of record as shown on the records in the Department of Finance and Revenue.

(7) “Street” means any public right-of-way, recorded as a street, road, or highway in the records of the Office of the Surveyor.

(8) “Surveyor” means the Surveyor of the District of Columbia.

(Mar. 10, 1983, D.C. Law 4-201, § 101, 30 DCR 148; Apr. 18, 1996, D.C. Law 11-110, § 18, 43 DCR 530; Oct. 22, 2008, D.C. Law 17-246, § 2(a), 55 DCR 9010.)

**Cross references.** — Surveyor of the District of Columbia, duties, see § 1-1301 et seq.

**Prior Codifications.** — 1981 Ed., § 7-411.

**Effect of amendments.** — D.C. Law 17-246 added par. (2A).

**Legislative history of Law 4-201.** — Law 4-201, the “Street and Alley Closing and Acquisition Procedures Act of 1982,” was introduced in Council and assigned Bill No. 4-341, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on November 16, 1982, and December 14, 1982, respectively. Signed by the Mayor on December 28, 1982, it was assigned Act No. 4-285 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 11-110.** — Law 11-110, the “Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was

assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

**Legislative history of Law 17-246.** — Law 17-246, the “Street and Alley Closing and Acquisition Procedures Amendment Act of 2008,” was introduced in Council and assigned Bill No. 17-479 which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on July 28, 2008, it was assigned Act No. 17-473 and transmitted to both Houses of Congress for its review. D.C. Law 17-246 became effective on October 22, 2008.

**References in text.** — Pursuant to the Office of the Chief Financial Officer’s “Notice of Public Interest” published in the April 18, 1997, issue of the District of Columbia Register (44 DCR 2345) the Office of Tax and Revenue assumed all of the duties and functions previously performed by the Department of Finance and Revenue, as set forth in Commissioner’s Order 69-96, dated March 7, 1969. This action was made effective January 22, 1997, nunc pro tunc.

CASE NOTES

**In general.**

Where the legislature has provided a method of vacating or abandoning streets, that method

is exclusive. *Tenley & Cleveland Park Emergency Comm. v. District of Columbia*, 115 WLR 1989 (Super. Ct. 1987).

*Subchapter II. Street and Alley Closing Procedures.*

**§ 9-202.01. Authority of the Council.**

The Mayor may close all or part of any street or alley which is determined by the Council to be unnecessary for street or alley purposes, upon approval of a proposed resolution submitted by the Mayor to the Council for its review.

(Mar. 10, 1983, D.C. Law 4-201, § 201, 30 DCR 148; Apr. 29, 1998, D.C. Law 12-86, § 504(a), 45 DCR 1172.)

**Cross references.** — Construction of public buildings, municipal center site acquisition, condemnation of public streets and alleys, see § 10-601.

National capital housing authority, street and alley closing procedures, see § 6-101.02.

**Section references.** — This section is referenced in § 6-101.02.

**Prior Codifications.** — 1981 Ed., § 7-421.

**Emergency legislation.** — For temporary order to close public alleys in Square 51, see § 2 of the Closing of Public Alleys in Square 51, S.O. 98-145, Emergency Act of 1998 (D.C. Act 12-597, January 20, 1999, 45 DCR 1142).

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Legislative history of Law 12-86.** — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 28, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

**Editor’s notes.** — Opposition to partial closure of Pennsylvania Avenue, N.W.: Pursuant to Resolution 6-136, the “Opposition to the Partial Closure of Pennsylvania Avenue, N.W., Resolution of 1985,” effective May 14, 1985, the Council emphatically opposes any proposal which includes the closure of Pennsylvania Avenue, N.W., between 15th and 17th Streets, N.W.

Authority to enact closing acts reaffirmed: Section 133 of § 101(d) of Pub. L. 99-591, the D.C. Appropriation Act, 1987, provided that the

Congress of the United States reaffirms the authority of the Council of the District of Columbia, as authorized by § 7-421, to enact the Closing of a Portion of 8th Street, Northwest, and Public Alleys in Square 403 Act of 1984 (D.C. Law 5-148), and the Closing of a Portion of 8th Street, Northwest, and Public Alleys and Square 403 Emergency Act of 1984 (D.C. Act 5-206).

Alley closings: Council regularly adopts alley closings which take effect after signature by the Mayor and 30-day Congressional review in accordance with § 1-206.02(c)(1) and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations. The alley closings are noted in the D.C. Laws Not Codified Table located in the tables volume.

Closing of Glover Archbold Parkway: Section 2 of D.C. Law 9-51 ordered, on a temporary basis, the closing of Glover Archbold Parkway, N.W., between Upton Street, N.W., and Van Ness Street, N.W. Section 3 of D.C. Law 9-51 provided, on a temporary basis, for the establishment of a street easement to be known as 40th Place, N.W., in Square 1789 and adjacent to Glover Archbold Parkway, N.W., S.O. 99-117 in Ward 3. Section 4 of D.C. Law 9-51 provided a map of the closing of Glover Archbold Parkway, N.W., and the establishment of 40th Place, N.W. Section 5(b) of D.C. Law 9-51 provided that the act shall expire on the 225th day of its having taken effect.

Temporary closing of public alleys in Square 51: Section 2(a) of D.C. Law 12-280 provided for the temporary closing of the public alleys in Square 51, as shown on the Surveyor’s plat filed under S.O. 98-145, with title to the land to vest as shown on the Surveyor’s plat. Section 6(b) of D.C. Law 12-280 provided that the act shall expire after 225 days of its having taken effect.



Closing of public alley in Square 371: Section 2 of D.C. Law 12-267 provided that the Council of the District of Columbia found the public alley in Square 371, as shown on the Surveyor's plat filed under S.O. 96-202, unnecessary for alley purposes, and ordered it closed, with title to the land to revert as shown on the Surveyor's plan.

Section 2 of D.C. Law 13-124 provided: "Pursuant to section 201 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Code § 9-202.01), the Council of the District of Columbia finds that the public alley in Square 6159, as shown on the Surveyor's plat filed under S.O. 98-125, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor's plat. Prior to the issuance of a building permit for the development of Lots 126, 123, and 812 in Square 6159, which is facilitated by the alley closing that is the subject of this act, the applicant shall certify to the District that the applicant's building plans satisfy the conditions required by the Department of Public Works as set forth in the official file on S.O. 98-125."

Section 2 of D.C. Law 13-240 provided:

"(a) Pursuant to section 201 of the Street and Alley Closing and Acquisition Procedures Act of 1982 the Council of the District of Columbia finds that the public alley in Square 4335, as shown on the Surveyor's plat filed under S.O. 98-245, is unnecessary for alley purposes and orders it closed, with title to vest as shown on the Surveyor's plat.

"(b) The approval of the Council of the District of Columbia of the closing of this alley is contingent upon the applicant satisfying the conditions required by the Department of Public Works as set forth in the official file on S.O. 98-245.

"(c) The approval of the Council of this closing is further contingent upon the recording, in the Recorder of Deeds Division of the District of Columbia Office of Tax and Revenue, of a covenant between the applicant and Verizon Atlantic and the applicant and PEPCO, granting each an easement for access and egress."

Section 2 of D.C. Law 14-37 provided:

"(a) Pursuant to section 201 the Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-202.01), the Council of the District of Columbia finds that the public alley in Square 192, as shown on the Surveyor's plat filed under S.O. 93-89, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor's plat.

"(b) The Council's order to close the alley is contingent upon:

"(1) The establishment of easements and satisfaction of other conditions required by the Department of Public Works, the District of

Columbia Water and Sewer Authority, and public utilities as set forth in the official file on S.O. 93-89; and

"(2) The owner of Lots 61, 62, 37, 38, 39, and 21 ('community garden lots'), or any subsequently consolidated lot which includes the community garden lots, retaining the community garden lots for the purpose of a community garden for a period of not less than five years after the effective date of this act October 13, 2001."

Section 2 of D.C. Law 15-243 provided: "Pursuant to section 201 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-202.01), the Council finds that the portion of the of the intersection of Minnesota Avenue and East Capitol Street, N.E., adjacent to Square 5047, as shown on the surveyor's plat filed under S. O. 02-3743, is unnecessary for street purposes and orders it closed, with title to the land to vest as shown on the surveyor's plat. The approval of the Council of this closing is contingent upon the satisfaction of all conditions set forth in the official file of S.O. 02-3743."

Section 2 of D.C. Law 15-254 provided: "Pursuant to section 201 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-202.01), the Council finds that the public alleys in Square 2674, as shown on the Surveyor's plat filed under S.O. 01-2426, are unnecessary for alley purposes and orders them closed, with title to the land to vest as shown on the Surveyor's plat. The approval of the Council of this closing is contingent upon satisfaction of all conditions set forth in the official file on S.O. 01-2426."

Section 2 of D.C. Law 15-306 provided:

"Sec. 2. (a) Pursuant to section 201 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-202.01), the Council finds that the portion of a public alley in Square 317, as shown on the Surveyor's plat filed under S.O. 04-7832, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor's plat.

"(b) The approval of the Council of this closing is contingent upon the satisfaction of the:

"(1) Conditions of the District of Columbia Office of Planning as set forth in the Office's memorandum, dated October 15, 2004, to the Surveyor and all other conditions set forth in the official file of S.O. 04-7832;

"(2) Provision, by the Applicant, of:

"(A) Commercial trash storage and disposal services within its proposed building for use by the buildings on Lots 22 and 835 in Square 317 and at no cost to the owners of Lots 22 and 835;



"(B) Automatic panic bar egress at the exit points of the proposed 10-foot wide, east-west pedestrian easement ("easement") to be provided through the Applicant's proposed building for persons exiting from the buildings located on Lots 22 and 835 in Square 317;

"(C) Automated access from 11th Street at the entry to the easement to the occupants of the building located on Lots 22 and 835 in Square 317;

"(D) A Commercial video screening and access mechanism at the entry to the easement from 11th Street to the occupants of the building on Lot 835 in Square 317;

"(E) Key access to the easement to the District of Columbia Fire and Emergency Medical Services Department; and

"(F) A building design for the proposed building that includes a garage ventilation discharge with an elevation at a minimum of 6 feet, 6 inches above grade and an exhaust velocity that will exchange the air in the garage no less than 7 times per hour; and

"(3) Incorporation of the conditions described in paragraphs (1) and (2) of this subsection in a recorded covenant."

## CASE NOTES

### ANALYSIS

In general.  
Validity.

#### In general.

Acts, which were passed by the District of Columbia city council closing portion of particular street and transferring title to that portion of the street to developers, who planned to create international trade center covering two city blocks on that portion of the street, were valid exercises of council's authority under the Home Rule Act, even though the HRA prohibited council from passing Acts concerning "functions or property of the United States" and even though title to street in question was vested in the United States. D.C. Code 1981, §§ 1-211 et seq., 1-233(a)(3). *Techworld Dev. Corp. v. D.C. Preservation League*, 648 F. Supp. 106, 1986 U.S. Dist. LEXIS 21851 (1986), vacated by, remanded by 1987 U.S. App. LEXIS 18346 (D.C. Cir. June 2, 1987).

Board of Zoning Adjustment was required to consider effects on surrounding neighborhood of street closings, pedestrian bridges and height restriction relief proposals in university's campus development plan, even though Board did not have jurisdiction to approve such proposals. D.C. Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. *Levy v. District of Co-*

*lumbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

Board of Zoning Adjustment's failure to consider effects of proposed street closings, pedestrian bridges and relief from height restrictions in university's campus development plan rendered Board's findings inadequate and legally insufficient to support ultimate conclusions underlying approval of plan, requiring remand. D.C. Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

#### Validity.

Congress, by authorizing the District of Columbia city council to close city streets, did not make councilmen "officers of the United States," and councilmen, who passed acts closing portion of particular street and transferring title to that portion of the street to developers who planned to create international trade center covering two city blocks on that portion of the street, did not exercise significant Federal authority; therefore, acts were not invalid under the appointments clause. U.S. Const. Art. 2, § 2, cl. 2. *Techworld Dev. Corp. v. D.C. Preservation League*, 648 F. Supp. 106, 1986 U.S. Dist. LEXIS 21851 (1986), vacated by, remanded by 1987 U.S. App. LEXIS 18346 (D.C. Cir. June 2, 1987).

## § 9-202.02. Actions required of Mayor prior to consideration of application.

Prior to consideration by a committee of the Council of an application to close all or part of a street or alley, the Mayor shall:

- (1) Provide the Council with a Surveyor's plat showing:
  - (A) The street or alley, or part thereof, to be closed;
  - (B) The lots abutting the street or alley, or part thereof, to be closed;
  - (C) Any dedication of land for street or alley purposes;
  - (D) Any easements to be established or reserved by the District; and

(E) The person(s) to whom the title to the land to be closed is to revert or vest.

(2) Provide the Council with any comments on the proposed closing submitted by the affected District agencies and public utilities.

(3) Except as provided in § 9-202.03, refer the application to the National Capital Planning Commission for its recommendations.

(4) Refer to the Historic Preservation Review Board, as established by § 6-1103 for its review, any application to close any street located on the L'Enfant Street Plan.

(5) Refer the application to the Advisory Neighborhood Commission in whose area the street or alley to be closed is located for its review, and provide the Council with a copy of any comments submitted by the affected Advisory Neighborhood Commission.

(6) Provide notice of the application to each abutting property owner, and provide the Council with a copy of any comments submitted by an abutting property owner.

(Mar. 10, 1983, D.C. Law 4-201, § 202, 30 DCR 148; May 10, 1988, D.C. Law 7-106, § 2(b), 35 DCR 2170; Sept. 21, 1988, D.C. Law 7-144, § 3(a), 35 DCR 5405.)

**Cross references.** — National capital housing authority, street and alley closing procedures, see § 6-101.02.

**Section references.** — This section is referenced in § 6-101.02 and § 9-202.03.

**Prior Codifications.** — 1981 Ed., § 7-422.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Legislative history of Law 7-106.** — For legislative history of D.C. Law 7-106, see Historical and Statutory Notes following § 9-203.06.

**Legislative history of Law 7-144.** — Law

7-144, the "Closing of a Public Alley in Square 140, S.O. 86-368, and the Street and Alley Closing Conforming Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-482, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 14, 1988 and June 28, 1988, respectively. Signed by the Mayor on June 30, 1988, it was assigned Act No. 7-196 and transmitted to both Houses of Congress for its review.

**Delegation of Authority.** — Delegation of authority under Law 4-201, see Mayor's Order 83-139, May 26, 1983.

## CASE NOTES

### In general.

Closing of portion of particular street in the District of Columbia and transferring title to that portion of the street to developers who planned to create international trade center covering two city blocks on that portion of the street was not federal "undertaking," for purposes of the National Historic Preservation Act; therefore, fact that the advisory council on historic preservation was not given opportunity to provide nonbinding recommendations concerning the closing did not invalidate the closing. D.C. Code 1981, § 7-422; National Historic Preservation Act, §§ 1, 106, as amended, 16 U.S.C. §§ 470, 470f. *Techworld Dev. Corp. v. D.C. Preservation League*, 648 F. Supp. 106, 1986 U.S. Dist. LEXIS 21851 (1986), vacated

by, remanded by 1987 U.S. App. LEXIS 18346 (D.C. Cir. June 2, 1987).

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1986 U.S. Dist. LEXIS 21851 (1986), vacated by, remanded by 1987 U.S. App. LEXIS 18346 (D.C. Cir. June 2, 1987).

Board of Zoning Adjustment was required to consider effects on surrounding neighborhood of street closings, pedestrian bridges and height restriction relief proposals in university's campus development plan, even though Board did not have jurisdiction to approve such proposals. D.C. Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

Board of Zoning Adjustment's failure to consider effects of proposed street closings, pedestrian bridges and relief from height restrictions in university's campus development plan rendered Board's findings inadequate and legally insufficient to support ultimate conclusions underlying approval of plan, requiring remand. D.C. Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

### § 9-202.03. Exceptions from requirement of referral of application to National Capital Planning Commission.

Section 9-202.02(3) shall not apply to any application to close all or part of an alley in the circumstances enumerated in § 9-202.05(2), (4)(A), (5), or (6).

(Mar. 10, 1983, D.C. Law 4-201, § 203, 30 DCR 148.)

**Section references.** — This section is referenced in § 9-202.02.

**Prior Codifications.** — 1981 Ed., § 7-423.

**Legislative history of Law 4-201.** — For

legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

### § 9-202.04. Public hearing required.

Except as provided in § 9-202.05, the Council shall hold a public hearing on all applications to close all or part of a street or alley.

(Mar. 10, 1983, D.C. Law 4-201, § 204, 30 DCR 148.)

**Section references.** — This section is referenced in § 9-202.05.

**Prior Codifications.** — 1981 Ed., § 7-424.

**Legislative history of Law 4-201.** — For

legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

### § 9-202.05. Inapplicability of § 9-202.04.

Section 9-202.04 shall not apply to any application to close:

(1) All or part of any alley when the application has been supported in writing by all of the owners of all the property in the square;

(2) All or part of any alley where the width of the alley is 10 feet or less, and the application has been supported in writing by all of the owners of all the property abutting the entire alley;

(3) All or part of any dead-end or unimproved street or alley when the application has been supported in writing by all of the record owners of all the property on both sides of the block(s) of the street which abuts the block(s) of that street to be closed or which abuts the entire alley;

(4) All or any part of any alley when the application has been supported in writing by all of the record owners of all the property abutting the entire



alley, and when land in the same square is concurrently provided for alley purposes either by:

(A) Dedication; or

(B) Easement;

(5) All or part of any alley when:

(A) The closing is supported in writing by all of the owners of the property in  $\frac{2}{3}$  of the square;

(B) The alley, all or part of which is to be closed, is located entirely within  $\frac{2}{3}$  of the square owned by the persons supporting the closing; and

(C) The owners propose to develop the entire area of the square which they own; and

(6) All or part of any alley when the District or the United States holds title to all the property abutting the alley, all or part of which is to be closed.

(Mar. 10, 1983, D.C. Law 4-201, § 205, 30 DCR 148; Mar. 14, 1985, D.C. Law 5-159, § 9, 32 DCR 30.)

**Section references.** — This section is referenced in § 9-202.03, § 9-202.04, and § 9-202.10.

**Prior Codifications.** — 1981 Ed., § 7-425.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Legislative history of Law 5-159.** — Law 5-159, the “End of Session Technical Amend-

ments Act of 1984,” was introduced in Council and assigned Bill No. 5-540, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 20, 1984, and December 4, 1984, respectively. Signed by the Mayor on December 10, 1984, it was assigned Act No. 5-224 and transmitted to both Houses of Congress for its review.

## § 9-202.06. Duties of applicant; Mayor to make available signs and prescribe format for written notice.

(a) At least 15 days and no more than 60 days prior to the date of any public hearing to consider an application to close all or part of a street or alley, the applicant shall:

(1) Give written notice of the date, time, and location of the public hearing to all of the owners of all the property on both sides of the block(s) of the street which abuts the block(s) of that street to be closed or which abuts that entire alley; and

(2) Post a sign which indicates the date, time, and location of the public hearing at each end of the block(s) of that street to be closed, or at each entrance from a street to any alley in the square.

(b) At least 15 days and no more than 6 months prior to final consideration by the Council of a proposed resolution to close all or part of a street or alley which has not been the subject of a public hearing, the applicant shall:

(1) Give written notice of the Council’s intent to consider the proposed resolution to all of the owners of all the property on both sides of the block(s) of the street or which abuts that alley; and

(2) Post a sign which indicates the Council’s intent to consider the proposed resolution at each end of the block(s) of that street to be closed, or at each entrance from a street to any alley in the square.

(c) The applicant shall certify to the Council that the notice required in

subsection (a) or (b) of this section has been given. A post office receipt of proof of mailing of the notice to the property owner's last known address and a photograph of each posted sign shall be sufficient proof that the required notice was given.

(d) The Mayor shall make available the signs and shall prescribe by rule a format for the written notice to be given pursuant to this section.

(Mar. 10, 1983, D.C. Law 4-201, § 206, 30 DCR 148; Apr. 30, 1988, D.C. Law 7-104, § 30, 35 DCR 147; Sept. 21, 1988, D.C. Law 7-144, § 3(b), 35 DCR 5405; Apr. 29, 1998, D.C. Law 12-86, § 504(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-264, § 20, 46 DCR 2118.)

**Cross references.** — Administrative procedure, notice of changes in rules and regulations, see § 2-505.

**Prior Codifications.** — 1981 Ed., § 7-426.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Legislative history of Law 7-104.** — Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-144.** — For

legislative history of D.C. Law 7-144, see Historical and Statutory Notes following § 9-202.02.

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 9-202.01.

**Legislative history of Law 12-264.** — Law 12-264, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

## § 9-202.07. Publication of notice of hearing; written notice to involved advisory neighborhood commission.

(a) At least 15 days prior to a public hearing to consider an application to close all or part of a street or alley, the Council shall publish notice of the public hearing in the D.C. Register and shall give written notice of the public hearing to the advisory neighborhood commission(s) in whose commission area the street and alley to be closed is located.

(b) At least 15 days and no more than 6 months prior to final consideration by the Council of proposed legislation to close all or part of a street or alley which has not been the subject of a public hearing, the Council shall give written notice of the Council's intent to consider the proposed legislation to the advisory neighborhood commission(s) in whose commission area the street and alley to be closed is located.

(Mar. 10, 1983, D.C. Law 4-201, § 207, 30 DCR 148; May 10, 1988, D.C. Law 7-106, § 2(c), 35 DCR 2170.)

**Cross references.** — Administrative procedure, notice of changes in rules and regulations, see § 2-505.

**Prior Codifications.** — 1981 Ed., § 7-427.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

torical and Statutory Notes following § 9-201.01.

**Legislative history of Law 7-106.** — For

legislative history of D.C. Law 7-106, see Historical and Statutory Notes following § 9-203.06.

## § 9-202.08. Disposition of property; use of money received therefrom.

Where title to the street or alley, of which all or part is to be closed, can reasonably be determined to be held by the United States or the District, the Council may dispose of the property to the best advantage of the District and may assess the fair market value of the land and the value of the District's improvements on the land to the person(s) to whom the title to the land is to vest. Any money received for land where the title was held by the United States shall be deposited in the Treasury of the United States to the credit of the United States. Any money received for land where title was held by the District shall be credited to the General Fund of the District.

(Mar. 10, 1983, D.C. Law 4-201, § 208, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-428.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

torical and Statutory Notes following § 9-201.01.

## § 9-202.09. Approval subject to contingencies; relocation assistance.

(a) The Council may make the approval of a closing of all or part of a street or alley contingent upon any or all of the following:

- (1) The dedication of any other land for street or alley purposes;
- (2) The granting to the District of specific easements for public purposes;

or

- (3) Any other condition that the Council considers necessary.

(b)(1) If the closing of all or part of a street or alley is associated with the demolition, substantial rehabilitation, or discontinuance of an existing building and results in the displacement of existing retail tenants, then the applicant shall certify to the District, prior to the issuance of a building permit for the development facilitated by the alley closing, that the applicant has either:

(A) Offered each eligible retail tenant a preferential opportunity to return to the new or rehabilitated building upon completion; or

(B) Provided each eligible retail tenant a relocation payment, the amount of which shall be calculated by multiplying the assessed value of the existing building by the proportion of square footage within the building that was occupied by the retail tenant, but in no event shall this relocation payment be required to exceed \$25,000.

(2) If the applicant offers the preferential opportunity to return referred to in subparagraph (1)(A) of this subsection and if the eligible retail tenant accepts the offer, then the applicant shall not be required to provide the eligible retail tenant with the relocation payment referred to in subparagraph (1)(B) of this subsection. If the applicant offers the preferential opportunity to return



referred to in subparagraph (1)(A) of this subsection and if the eligible retail tenant declines or does not respond to the offer, then the applicant shall provide the eligible retail tenant with the relocation payment referred to in subparagraph (1)(B) of this subsection. If the applicant chooses not to offer the preferential opportunity to return referred to in subparagraph (1)(A) of this subsection, then the applicant shall provide the eligible retail tenant with the relocation payment referred to in subparagraph (1)(B) of this subsection.

(3) The preferential opportunity to return referred to in subparagraph (1)(A) of this subsection includes at least a written offer to return to space to be leased in the new or rehabilitated building upon completion.

(4) The relocation assistance required by this section referred to in paragraph (1) of this subsection shall be designed for the benefit of eligible retail tenants who are displaced by a development associated with a street or alley closing, and both the eligible retail tenants and the Corporation Counsel, on behalf of the District of Columbia, shall have the right to sue in the Superior Court of the District of Columbia to enforce the relocation assistance required by this section. A copy of the relocation assistance required by this section shall be sent by the applicant to all retail tenants who may be displaced by a development associated with the application, and the applicant shall use best efforts to notify retail tenants of the relocation assistance required by this section.

(5) Prior to consideration by a committee of the Council of an application to close all or part of a street or alley, the Mayor shall provide the Council with information regarding:

(A) The effect of the street or alley closing upon any existing retail tenants in buildings associated with the street or alley closing; and

(B) The assessed value of the street or alley to be closed and the assessed values of land and of buildings associated with the street or alley closing.

(c) In order to be eligible for the relocation assistance provided in subsection (b) of this section, a retail tenant:

(1) Shall be a nonresidential tenant offering goods or nonprofessional services;

(2) Shall have been a tenant of the existing building for a minimum of 3 years prior to the date of introduction of proposed legislation to close all or a part of a street or alley associated with the demolition, substantial rehabilitation, or discontinuance of the existing building;

(3) Shall have had an annual gross revenue, from all business locations within the District of Columbia, that totaled not more than \$5,000,000 in the year preceding the date of displacement;

(4) Shall not have an ownership interest in the property to be developed; and

(5) Shall relocate within the District of Columbia.

(d) A retail tenant shall refund any relocation payment provided under this section if the retail tenant relocates outside the District of Columbia within a period of 3 years.

(e) The provisions of subsections (b) and (c) of this section shall not apply to applications by the Washington Metropolitan Area Transit Authority for

closing all or part of a street or alley for the sole purpose of construction of transit facilities.

(f) An applicant who obtains a street or alley closing or a zoning density increase and who is required to construct or rehabilitate affordable housing pursuant to section 308b of the Comprehensive Plan (10 DCMR) [10 DCMR § 308b] shall not be issued a building permit for the applicant's commercial development until the applicant certifies to the District either that a building permit has been issued for the required amount of affordable housing, or that the applicant has contributed sufficient funds to a housing provider to construct or rehabilitate the required amount of affordable housing.

(Mar. 10, 1983, D.C. Law 4-201, § 209, 30 DCR 148; Aug. 7, 1986, D.C. Law 6-133, § 2, 33 DCR 3625; Oct. 6, 1994, D.C. Law 10-193, § 3(c), 41 DCR 5536; Apr. 27, 1999, D.C. Law 12-275, § 4, 46 DCR 1441.)

**Section references.** — This section is referenced in § 9-202.12.

**Prior Codifications.** — 1981 Ed., § 7-429.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Legislative history of Law 6-133.** — Law 6-133, the "Street and Alley Closing and Acquisition Procedures Act of 1982 Relocation Assistance Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-330, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 13, 1986 and May 27, 1986, respectively. Signed by the Mayor on June 6, 1986, it was assigned Act No. 6-171 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 10-193.** — Law 10-193, the "Comprehensive Plan Amendments Act of 1994," was introduced in Council and assigned Bill No. 10-212, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 7, 1994, and June 21, 1994, respectively. Signed by the Mayor on August 8, 1994, it was assigned Act No. 10-323 and transmitted to both

Houses of Congress for its review. D.C. Law 10-193 became effective on October 6, 1994.

**Legislative history of Law 12-275.** — Law 12-275, the "Comprehensive Plan Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-99. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-609 and transmitted to both Houses of Congress for its review. D.C. Law 12-275 became effective on April 27, 1999.

**Effective date.** — Section 4(b) of D.C. Law 10-193 provided that no District element of the Comprehensive Plan for the National Capital shall take effect until it has been reviewed by the National Capital Planning Commission as provided in § 2-1002(a) and § 1-204.23.

Section 7(b) of D.C. Law 12-275 provided that no District element of the Comprehensive Plan for the National Capital shall take effect until it has been reviewed by the National Capital Planning Commission as provided in § 2-1002(a) and § 1-204.23.

**References in text.** — Section 308b of the Comprehensive Plan (10 DCMR) referred to in (f) is codified as § 308b of Title 10 of the D.C. Municipal Regulations.

## CASE NOTES

### In general.

Board of Zoning Adjustment was required to consider effects on surrounding neighborhood of street closings, pedestrian bridges and height restriction relief proposals in university's campus development plan, even though Board did not have jurisdiction to approve such proposals. D.C. Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

Board of Zoning Adjustment's failure to consider effects of proposed street closings, pedestrian bridges and relief from height restrictions in university's campus development plan rendered Board's findings inadequate and legally insufficient to support ultimate conclusions underlying approval of plan, requiring remand. D.C. Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

**§ 9-202.10. Required notice of approval to affected property owners.**

Except in the circumstances enumerated in § 9-202.05(1) through (6), following enactment of legislation ordering the closing of all or part of a street or alley, the Mayor shall give written notice to the owners of the property on both sides of the block(s) of the street to be closed or which abuts that entire alley, that the legislation has been approved by the Council and signed by the Mayor. This notice shall also indicate that any written objection by an interested party aggrieved by the closing must state how the person is aggrieved by the closing and must be filed with the Mayor within 30 days of the mailing of the notice.

(Mar. 10, 1983, D.C. Law 4-201, § 210, 30 DCR 148.)

**Section references.** — This section is referenced in § 9-202.11.

**Prior Codifications.** — 1981 Ed., § 7-430.

**Legislative history of Law 4-201.** — For

legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**§ 9-202.11. Judicial proceeding upon filing of objection; damages.**

When an objection is filed with the Mayor as provided for in § 9-202.10, the Mayor shall institute a proceeding in rem in the Superior Court of the District of Columbia for the closing of the street or alley, or part thereof, and for the ascertainment of damages and the assessment of benefits resulting from the closing. The proceedings shall be conducted in the same manner as proceedings for the condemnation of land for streets and alleys pursuant to Chapter 13 of Title 16. Any damages awarded by the Court shall cover the administrative costs of the proceedings and shall be paid by the applicant for the closing, the applicant having the right, within a reasonable time to be fixed by the Court in its order confirming the verdict, to abandon the proposed closing without being liable for damages ordered by the Court. If no damages are awarded by the Court, the person who filed the objection shall pay the administrative costs of the in rem proceeding.

(Mar. 10, 1983, D.C. Law 4-201, § 211, 30 DCR 148.)

**Section references.** — This section is referenced in § 9-202.12.

**Prior Codifications.** — 1981 Ed., § 7-431.

**Legislative history of Law 4-201.** — For

legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**§ 9-202.12. Recordation of closing act and Surveyor's plat; effects of recordation.**

Following the effective date of an act ordering the closing of a street or alley, and following the finding by the Surveyor of compliance with any conditions required in the street or alley closing act pursuant to § 9-202.09 and following the payment of any damages awarded pursuant to § 9-202.11, the Surveyor



shall record a copy of the street or alley closing act and the Surveyor's plat in the Office of the Surveyor. Upon the recordation of the Surveyor's plat, the street or alley, or part thereof, will be deemed closed and the title to the land shall revert to or be vested in fee simple to the record owners as shown on the plat. This land shall thereafter be assessable in all respects as all other real property in the District of Columbia. The right of the public to use the street or alley, and any proprietary interest of the United States or the District in the street or alley, or part thereof, shall cease, unless a temporary continued use is required by the Mayor. Upon the recordation in the Office of the Surveyor of a closing plat showing any easement or dedication of land for public purposes that has been established or accepted in an act closing a street or alley, or part thereof, the land encompassed by the easement or dedication shall thereafter be available for that public use.

(Mar. 10, 1983, D.C. Law 4-201, § 212, 30 DCR 148.)

**Cross references.** — Surveyor of the District of Columbia, duties, see § 1-1301 et seq.

**Prior Codifications.** — 1981 Ed., § 7-432.

**Legislative history of Law 4-201.** — For

legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

## § 9-202.13. Disposition of closing act and plat.

Upon the recordation of the plat, the Surveyor shall send a copy of the act and the plat to the applicant and to the Director of the Department of Finance and Revenue.

(Mar. 10, 1983, D.C. Law 4-201, § 213, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-433.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**References in text.** — Pursuant to the Office of the Chief Financial Officer's "Notice of Public Interest" published in the April 18, 1997,

issue of the District of Columbia Register (44 DCR 2345) the Office of Tax and Revenue assumed all of the duties and functions previously performed by the Department of Finance and Revenue, as set forth in Commissioner's Order 69-96, dated March 7, 1969. This action was made effective January 22, 1997, nunc pro tunc.

## § 9-202.14. Fee schedule.

The Mayor shall establish a fee schedule to recover the costs associated with the consideration of an application to close all or part of a street or alley.

(Mar. 10, 1983, D.C. Law 4-201, § 214, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-434.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

torical and Statutory Notes following § 9-201.01.

## § 9-202.15. Mayor to issue procedures for review by agencies and public utilities.

Within 6 months of April 29, 1998, the Mayor shall issue procedures to require that all administrative reviews by affected agencies and by the public

utilities of all applications to close all or part of a street or public alley, including agency and utility procedures both prior to Council review and after enactment of the resolution, will be completed within a total period of no greater than 180 days from the date of application. This 180 day period shall not include the days that the resolution is pending in the Council.

(Mar. 10, 1983, D.C. Law 4-201, § 215, 30 DCR 148; Apr. 29, 1998, D.C. Law 12-86, § 504(c), 45 DCR 1172.)

**Cross references.** — Building lines, assessment proceedings, see § 6-403.

**Prior Codifications.** — 1981 Ed., § 7-435.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 9-202.01.

### *Subchapter III. New Streets or Alleys.*

#### § 9-203.01. Scope of Mayor's authority.

The Mayor may open, extend, widen, or straighten:

- (1) Any street to conform with the highway plan; or
- (2) Any minor street or alley, upon the petition of the owners of more than ½ of the property fronting on the proposed street or alley, or when the Mayor finds that the public interest would be served best by the action.

(Mar. 10, 1983, D.C. Law 4-201, § 301, 30 DCR 148.)

**Cross references.** — Public ways, streets and alleys on recorded plats, see § 1-1314.

**Section references.** — This section is referenced in § 6-403 and § 9-203.02.

**Prior Codifications.** — 1981 Ed., § 7-441.

**Legislative history of Law 4-201.** — For

legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Delegation of Authority.** — Delegation of authority under Law 4-201, see Mayor's Order 83-139, May 26, 1983.

#### § 9-203.02. Methods of acquisition.

Any land used for the purpose of opening, extending, widening, or straightening any street, minor street, or alley pursuant to § 9-203.01 may be acquired by:

- (1) Purchase;
- (2) Condemnation pursuant to Chapter 13 of Title 16; or
- (3) Acceptance by the Council of a dedication of land; provided, that if the land is to be acquired for a Federal Aid Highway project, the person offering to dedicate the land must be informed of his or her right to compensation for it.

(Mar. 10, 1983, D.C. Law 4-201, § 302, 30 DCR 148.)

**Cross references.** — Alleys and minor streets, condemnation of materials necessary to construction and repair, see § 9-1219.01.

City of Georgetown, abolition, see § 1-107.

Eminent domain, acquisition of excess real property for development of the seat of government, see § 16-1331 et seq.

Eminent domain, condemnation proceedings,

see § 16-1301 et seq.

National capital housing authority, street and alley closing procedures, see § 6-10

**Prior Codifications.** — 1981 Ed., § 7-442.

**Temporary Amendment of Section.** — For temporary (225 day) acceptance of dedication, see § 2 of Dedication and Designation of Harry Thomas Way Temporary Act of 1998 (D.C. Law 12-251, April 20, 1999, law notification 46 DCR 4164).

Section 2 of D.C. Law 17-240 amended section 2 of D.C. Law 15-310, in subsec. (a)(1), by substituting “provided, that the dedication of land, in fee, for street purposes of Tingey Street shall exclude the land that is located under the existing historic building known as Building 160, consisting of approximately 2,577 square feet, as such land is depicted on a certain survey, prepared by AMT, LLC, to mark and map (‘excluded land’) and recorded in the records of the Office of the Surveyor on February 25, 2008, as Map RS-126 and prepared in conjunction with a plat in Survey Book 1000 at page 203 and also known as Map No. RS-126; and, provided further, that” for “provided, that”; and by adding subsec. (c) to read as follows:

“(c) Upon the effective date of the Tingey Street, S.E. Right-of-Way Emergency Amendment Act of 2008, signed by the Mayor on July 16, 2008 (D.C. Act 17-426; 55 DCR 8248), the excluded land, as described in subsection (a) (1) of this section, shall revert to and be vested in the United States of America, acting by and through the Administrator of the General Services Administration.”

Section 5(b) of D.C. Law 17-240 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary acceptance of dedication of land located between Eckington Place, N.E., and Third Street, N.E., as a public street, see § 2(a) of the Dedication and Designation of Harry Thomas Way Emergency Act of 1998 (D.C. Act 12-579, January 12, 1999, 45 DCR 966).

For acceptance of a dedication of certain land, see § 2(a) of the Dedication and Designation of Harry Thomas Way, N.E. Emergency Act of 1999 (D.C. Act 13-198, December 1, 1999, 46 DCR 10444).

For acceptance of a dedication of certain land, see § 2(a) of the Dedication and Designation of Harry Thomas Way, N.E. Congressional Review Emergency Act of 2000 (D.C. Act 13-277, March 7, 2000, 47 DCR 2017).

For temporary (90 day) amendment of D. C. Law 14-287, § 3, see § 2 of Removal from the Permanent System of Highways, a Portion of 22nd Street, S.E. and the Dedication of Land for Street Purposes (S.O. 00-89) Technical Emergency Amendment Act of 2004 (D.C. Act 15-461, June 23, 2004, 51 DCR 6748).

For temporary (90 day) amendment of D.C. Law 14-287, § 3, see § 2 of Removal from the Permanent System of Highways, a Portion of 22nd Street, S.E. and the Dedication of Land for Street Purposes (S.O.00-89) Technical Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-516, August 2, 2004, 51 DCR 8988).

For temporary (90 day) dedication, see § 3 of Closing, Dedication, and Designation of Public Streets and Alleys in Squares 5246, 5273, 5277, 5279, 5280, and 5281, S.O. 02-4088, Emergency Act of 2005 (D.C. Act 16-65, April 20, 2005, 52 DCR 4138).

For temporary (90 day) acceptance of dedication, see § 3 of Closing, Dedication, and Designation of Public Streets and Alleys in Squares 5318, 5319, and 5320 Emergency Act of 2006 (D.C. Act 16-419, July 18, 2006, 53 DCR 6161).

For temporary (90 day) acceptance of dedication, see § 2 of Dedication of Public Streets and Alleys in Squares 5318, 5319, and 5320 Congressional Review Emergency Act of 2006 (D.C. Act 16-497, October 23, 2006, 53 DCR 8840).

For temporary (90 day) amendment of D.C. Law 15-310, see § 2(a) of Tingey Street, S.E. Right-of-Way Emergency Amendment Act of 2008 (D.C. Act 17-426, July 16, 2008, 55 DCR 8248).

For temporary (90 day) amendment of section 2 of D.C. Law 15-310, see § 2(a) of Tingey Street, S.E. Right-of-Way Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-558, October 27, 2008, 55 DCR 12008).

For temporary (90 day) amendment of section 2 of D.C. Law 15-310, see § 2(a) of Tingey Street, S.E. Right-of-Way Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-111, June 18, 2009, 56 DCR 4938).

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Editor’s notes.** — Approval of new streets or alleys: Section 3 of D.C. Law 8-81 provided that the Council accepted the dedication of land for minor streets in Squares 5041 and 5056; approved the set-aside of portions of public alleys for minor streets in Squares 5041 and 5056, as shown on the Surveyor’s plat filed under S.O. 88-212; approved the set-aside of a portion of Grant Street, N.E., for Parkside Place, N.E., as shown on the Surveyor’s plat filed under S.O. 88-212; and approved the establishment of building restriction lines for minor streets in Squares 5041 and 5056, as shown on the Surveyor’s plat filed under S.O. 88-212.

Approval of new streets or alleys: Section 2 of D.C. Law 8-178 provided that the Council accepts the dedication of land and approves the establishment of building restriction lines necessary to create minor streets within Lot 2 in Square 5957, as shown on the Surveyor’s plat



filed under S.O. 89-276, upon the filing of certain covenants in the Recorder of Deeds Division. Section 4(b) of D.C. Law 8-178 provided that if the covenant required by § 2 of the act is not filed within 2 years of October 2, 1990, the act shall expire.

Section 2 of D.C. Law 10-100 provided that the Council accepts the dedication of land in fee simple absolute of land in square 5338, for public street purposes, as shown on the surveyor's plat filed under S.O. 86-24.

Section 2 of D.C. Law 10-197 provided that the Council accepts the dedication of land and approves the establishment of building restriction lines necessary to create a minor street in Square 5969 near Mississippi Avenue, S.E., and 4th Street, S.E., as shown on the Surveyor's plat filed under S.O. 92-124.

Section 2 of D.C. Law 13-82 provided: "Pursuant to section 302(c) of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Code § 7-442(3) § 9-203.02(3), 2001 Ed.), the Council of the District of Columbia accepts the dedication of a fee simple absolute in land in Square 557 for public alley purposes, as shown on the Surveyor's plat filed under S.O. 93-207."

Section 2 of D.C. Law 13-89 provided:

"(a) Pursuant to section 302(c) of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Code § 7-442(3) § 9-203.02(3), 2001 Ed. ) ('Act'), and notwithstanding the requirement set forth in section 304 of the Act (D.C. Code § 7-444 § 9-203.04, 2001 Ed. ), that in any one block length, a minor street shall be 75 feet wide, the Council accepts the dedication of land necessary to create a minor street in squares 3575, 3576, 3579, 3580, 3581, 3582 and 3583 between Eckington Place, N.E., and Third Street, N.E., as shown on the Surveyor's plat filed under S.O. 98-243.

"(b) Pursuant to sections 401 and 405 of the Act (D.C. Code §§ 7-451 and 7-455 §§ 9-204.01 and 9-204.04, 2001 Ed.), the minor street created by the dedication of land in subsection (a) of this section shall be designated 'Harry Thomas Way, N.E.'."

Section 3 of D.C. Law 14-287, as amended by D.C. Law 15-192, § 2, Sept. 30, 2004, 51 DCR 6741, and D.C. Law 15-243, § 3, Mar. 16, 2004, 51 DCR 11231, provided:

"(a) Pursuant to sections 302(c) and 304 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-203.02(3) and 9-203.04) ('Act'), the Council accepts the dedication, in fee simple absolute, of the land necessary for the realignment of streets in Square 5621, bounded by T Street and 22nd Street as shown on the revised Surveyor's plat filed under S.O. 00-89. This dedication shall be conditioned upon the applicant's

construction of a new street on the land to be dedicated and compliance with all conditions required by the District Department of Transportation, as specified in the S. O. 00-89 file. The Mayor is authorized to accept street improvements made or to be made by the applicant to the area dedication for street purposes, subject to the District Department of Transportation.

"(b) Pursuant to sections 401 and 405 of the Act, the Council hereby designates the dedicated land described in subsection (a) of this section as 'Fairlawn Court, S.E.'."

Section 2 of D.C. Law 15-29 provided:

"(a) Pursuant to section 302(c) of the Street and Alley Closing and Acquisition Procedures Act of 1982 ('Act'), effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-203.02(3)), the Council accepts the dedication, in fee simple absolute, of land necessary to create Commodore Joshua Barney Drive, N.E., Fort Lincoln Drive, N.E., and Lincoln Drive North, N.E., all in Square 4325, bounded by Bladensburg Road, N.E., South Dakota Avenue, N.E., and New York Avenue, N.E., as shown on the Surveyor's plat filed under S.O. 00-98.

"(b) Pursuant to sections 401 and 405 of the Act, the streets created by the dedication of the land referenced in subsection (a) of this section shall be designated as 'Commodore Joshua Barney Drive, N.E.', 'Fort Lincoln Drive, N.E.', and 'Lincoln Drive North, N.E.', as shown on the Surveyor's plat filed under S.O. 00-98."

Section 2 of D.C. Law 15-144 provided:

"Sec. 2. (a) Notwithstanding any provision of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-202.01 et seq.) ('Act'), the Council orders the closing of the 600 block of I Street, S.E., as shown on the revised Surveyor's plat filed under S.O. 95-251.

"(b) Notwithstanding any provision of the Act, the Council accepts the dedication of land for street purposes, which is the existing functioning street that is located immediately north of and parallel to the Southeast Freeway between 6th Street, S.E., and 7th Street, S.E., and designates this street as 'Virginia Avenue, S.E.', as shown on the revised Surveyor's plat filed under S.O. 95-251.

Section 2 of D.C. Law 15-310, as amended by section 7 of D.C. Law 18-39, provided:

"Sec. 2. (a) Pursuant to section 302 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § D.C. Official Code § 9-203.02) ('Act'), and notwithstanding the requirements set forth in sections 303 and 304 of the Act, the Council accepts:

"(1) The dedication of land in fee for street purposes from the General Services Administration of portions of New Jersey Avenue,

Tingey Street, and 4th Street; provided, that the dedication of land, in fee, for street purposes of Tingey Street shall exclude the land that is located under the existing historic building known as Building 160, consisting of approximately 2,577 square feet, as such land is depicted on a certain survey, prepared by AMT, LLC, to mark and map ('excluded land') and recorded in the records of the Office of the Surveyor on February 25, 2008, as Map RS-126 and prepared in conjunction with a plat in Survey Book 1000 at page 203 and also known as Map No. RS-126; and, provided further, that the General Services Administration, on behalf of the United States and its successors in interests, reserves by perpetual easement the right to:

"(A) Use the below-grade space of the right-of-way without charge from the District and without the requirement for public-space permits, subject to the District's right to:

"(i) Inspect the proposed plans to insure the integrity of the streets; and

"(ii) Install utilities in the below-grade space; and

"(B) Construct street improvements at grade, such as curb cuts and lay-bys, within the area dedicated for street purposes, pursuant to the District Department of Transportation's standards governing such improvements;

"(2) The dedication of land in fee for street purposes from JBG/SEFC Venture, L.L.C., of portions of New Jersey Avenue, Tingey Street, and 4th Street;

"(3) The dedication of land by easement for public space purposes from JBG/SEFC Venture, L.L.C., of a portion of New Jersey Avenue; and

"(4) The dedication of below-grade space by easement for utility purposes from JBG/SEFC Venture, L.L.C., of a portion of New Jersey Avenue.

"(b) The Council's acceptance of the dedication of land described in subsection (a) of this section is contingent upon the filing of covenants in the Land Records for the District of Columbia and the filing of the dedication plat in the Office of the Surveyor for the District of Columbia.

"(c) On July 16, 2008, the excluded land, as described in subsection (a)(1) of this section, shall revert to and be vested in the United States of America, acting by and through the Administrator of the General Services Administration."

Section 3 of D.C. Law 16-5 provided:

"Sec. 3. Pursuant to sections 302 and 401 of the Act, the Council accepts the dedication of the streets and alleys in Squares 5246, 5272, 5273, 5276, 5277, 5279, 5280, and 5281, as shown on the Surveyor's plats filed under S.O. 02-4088, and dedicates the streets as extensions of 57th Street, S.E., 57th Place, S.E., and

Blaine Street, N.E., as shown on the Surveyor's plats in the S.O. File 02-4088. The approval of the Council of this dedication is contingent upon the satisfaction of all the conditions set forth in the official S.O. File 02-4088."

Section 3 of D.C. Law 16-26 provided:

"Sec. 3. (a) Pursuant to sections 302(c) and 304 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-203.02(3) and 9-203.04) ('Street and Alley Closing and Acquisition Procedures Act'), the Council accepts the dedication, in fee simple absolute, of the land necessary for the realignment of streets in Square 5912, as shown on the Surveyor's plat in S.O. File 04-8736.

"(b) Pursuant to section 302(c) of the Street and Alley Closing and Acquisition Procedures Act and notwithstanding the requirement set forth in section 304 that in any one block length, a minor street shall be 75 feet wide, the Council accepts the dedication of land necessary to create several minor streets and alleys in Square 5912, as shown on the Surveyor's plat in S.O. File 04-8736.

"(c) Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act, the minor streets created by the dedication of land in subsection (b) of this section shall be designated Tanner Place, S.E., Anderson Place, S.E., and Cook Drive, S.E."

Section 2 of D.C. Law 16-70 provided:

"Sec. 2. (a) In accordance with section 302 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-203.02), the Council accepts the dedication of land in fee for alley purposes in Square 5252, as shown on the Surveyor's plat in the S.O. File 03-1717.

"(b) The dedication of land as provided in subsection (a) of this section shall be effective upon the filing of the dedication plat in the Office of the Surveyor for the District of Columbia."

Section 2 of D.C. Law 16-180 provided:

"Pursuant to section 302 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-203.02) ('Act'), the Council approves the dedication of land for streets and alleys in Squares 5318, 5319, and 5320, in Ward 7, as shown on the Surveyor's plats filed under S.O. 05-8132. The approval of the Council of this dedication is contingent upon the satisfaction of all the conditions set forth in the official file of S.O. 05-8132."

Section 2 of D.C. Law 17-174 provided:

"Sec. 2. Pursuant to section 302(c) of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-203.02(3)) ('Act'), and notwithstanding the re-



quirements of section 304 of the Act (D.C. Official Code § 9-203.04), the Council accepts the dedication, in fee simple absolute, of the land necessary for street purposes and approves the establishment of a building restriction line in Square 1346, bounded by Foxhall Road, N.W., and W Street, N.W., as shown on the Surveyor's plat filed under S.O. 06-9108. The Council's acceptance of this dedication and building line restriction shall be contingent upon the applicant's satisfaction of all conditions set forth in the official file S.O. 06-9108."

Section 3 of D.C. Law 18-39 provided:

"Sec. 3. (a) Pursuant to sections 302 and 401 of the Act (D.C. Official Code §§ 9-203.02 and 9-204.01), and notwithstanding the requirements of section 303(a), (b), and (c)(2) and section 304 of the Act (D.C. Official Code §§ 9-203.03(a), (b), and (c)(2) and 9-203.04), the Council accepts the dedication of land as shown on the Surveyor's plat filed under S.O. 07-8802 and designates the streets as N Street, S.E., 2nd Street, S.E., 3rd Street, S.E., 4th Street, S.E., 5th Street, S.E., Water Street, S.E., and Tingley Street, S.E., as shown on the Surveyor's plat filed under S.O. File 07-8802.

"(b) The Council's acceptance of the dedication of land described in subsection (a) of this

section is contingent upon the issuance of the written statement by the District Department of Transportation required by section 303(c)(1) of the Act (D.C. Official Code § 9-203.03(c)(1)) ('DDOT Statement'); except, that the DDOT Statement shall not be required if the District of Columbia, acting through the District Department of Transportation, and Forest City SEFC, LLC, have executed an agreement governing the acceptance and dedication of street improvements in the Southeast Federal Center and the agreement is in full force and effect.

"(c) Nothing in this section shall be deemed to waive any laws, regulations, rules, or orders that are applicable to the construction of improvements on the land dedicated pursuant to this section."

Section 2 of D.C. Law 18-68 provided:

"Sec. 2. Pursuant to section 302(c) of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-203.02(3)) ('Act'), and notwithstanding the requirements of section 304 of the Act (D.C. Official Code § 9-203.04), the Council accepts the dedication, in fee simple absolute, of the land necessary for street and alley purposes as shown on the Surveyor's Plat filed under S.O. 07-3090."

### § 9-203.03. Council acceptance of land dedication.

(a) Where the highway plan shows: (1) a street as 90 feet wide, the Council may accept a dedication of land no less than 60 feet wide; (2) a street as 120 feet or more wide, the Council may accept a dedication of land no less than 90 feet wide; provided, that in both clauses (1) and (2) of this section the persons dedicating the land agree to establish building restriction lines to correspond with the width of the street as shown on the highway plan.

(b) An application to dedicate land to establish a minor street that would not meet the requirements of § 9-203.04 shall be accompanied by a document signed by the Mayor, stating that the Mayor has authorized the nonconforming street width or building-line setback.

(c) When the Council makes street construction a condition for the dedication of land for street purposes, the Surveyor shall not record a dedication plat until DDOT has issued a written statement ("DDOT Statement") that:

(1) The owner of the property to be dedicated has constructed the street improvements in accordance with the Council's conditions, DDOT's standard and specifications, and any plans required and approved by DDOT; and

(2) The owner of the property being dedicated has signed a document, which shall be attached to the DDOT Statement, that indemnifies and holds harmless the District and all of its officers, agents, and servants against any and all claims or liability arising from or based on, or as a consequence or result of, any latent defects, act, omission, or default of the owner of the property, his employees, agents, servants, contractors, or subcontractors, in



the performance of, or in connection with, any work required, contemplated, or performed in connection with the construction of the street.

(Mar. 10, 1983, D.C. Law 4-201, § 303, 30 DCR 148; Oct. 22, 2008, D.C. Law 17-246, § 2(b), 55 DCR 9010.)

**Cross references.** — Public ways, streets and alleys on recorded plats, see § 1-1314.

**Section references.** — This section is referenced in § 9-203.04.

**Prior Codifications.** — 1981 Ed., § 7-443.

**Effect of amendments.** — D.C. Law 17-246 designated subsec. (a); and added subsecs. (b) and (c).

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Legislative history of Law 17-246.** — For Law 17-246, see notes following § 9-201.01.

## § 9-203.04. Minor streets.

Except as provided in § 9-203.03(b) and (c), and any regulations issued pursuant to § 9-203.03(b) or (c), in any 1 block length, a minor street shall be 75 feet wide, though land may be acquired at a width of 55 feet with building restriction lines set 10 feet back on both sides of the street lines.

(Mar. 10, 1983, D.C. Law 4-201, § 304, 30 DCR 148; Oct. 22, 2008, D.C. Law 17-246, § 2(c), 55 DCR 9010.)

**Section references.** — This section is referenced in § 9-203.03.

**Prior Codifications.** — 1981 Ed., § 7-444.

**Effect of amendments.** — D.C. Law 17-246 substituted “Except as provided in § 9-203.03(b) and (c), and any regulations issued pursuant to § 9-203.03(b) or (c), in any” for “In any”.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Legislative history of Law 17-246.** — For Law 17-246, see notes following § 9-201.01.

**Editor’s notes.** — Approval of new streets or alleys: Section 2 of D.C. Law 8-178 provided that the Council accepts the dedication of land and approves the establishment of building restriction lines necessary to create minor streets within Lot 2 in Square 5957, as shown on the Surveyor’s plat filed under S.O. 89-276, upon the filing of certain covenants in the Recorder of Deeds Division. Section 4(b) of D.C. Law 8-178 provided that if the covenant required by § 2 of the act is not filed within 2 years of October 2, 1990, the act shall expire.

Creation of street: Section 2 of D.C. Law 7-102 provided that pursuant to § 9-203.04 the

Council of the District of Columbia accepts the dedication of land and approves the establishment of building restriction lines necessary to create a minor street in Square 4325 connecting 31st Place, N.E., and Fort Lincoln Drive, N.E., in Fort Lincoln New Town, as shown in the Surveyor’s plat filed under S.O. 85-189.

Approval of new streets or alleys: Section 3 of D.C. Law 8-81 provided that the Council accepted the dedication of land for minor streets in Squares 5041 and 5056; approved the set-aside of portions of public alleys for minor streets in Squares 5041 and 5056, as shown on the Surveyor’s plat filed under S.O. 88-212; approved the set-aside of a portion of Grant Street, N.E., for Parkside Place, N.E., as shown on the Surveyor’s plat filed under S.O. 88-212; and approved the establishment of building restriction lines for minor streets in Squares 5041 and 5056, as shown on the Surveyor’s plat filed under S.O. 88-212.

Section 2 of D.C. Law 10-197 provided that the Council accepts the dedication of land and approves the establishment of building restriction lines necessary to create a minor street in Square 5969 near Mississippi Avenue, S.E., and 4th Street, S.E., as shown on the Surveyor’s plat filed under S.O. 92-124.

## § 9-203.05. Area between property line and building restriction line.

Any area between the property line and the building restriction line shall be

considered as private property set aside and treated as public space under the care and maintenance of the property owner. The use of this area shall be controlled by the District of Columbia police regulations with respect to the use of public space and the projection of buildings beyond the building line. The District shall have a right-of-way through this area for sewers and water mains free of charge. The Mayor may build sidewalks on this area if in the judgment of the Mayor the space between the street lines is not sufficient to permit the construction of sidewalks within the street lines.

(Mar. 10, 1983, D.C. Law 4-201, § 305, 30 DCR 148.)

**Cross references.** — Building lines, assessment proceedings, see § 6-403.

Building lines, establishment, funding drawn from appropriations for opening alleys and minor streets, see § 6-406.

**Prior Codifications.** — 1981 Ed., § 7-445.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

## § 9-203.06. Improvement of street — Prerequisites.

(a) Prior to the improvement or issuance of a permit to improve a street that has been acquired for street purposes by the District but has neither been improved nor used as a public right-of-way for vehicles within 10 years of its acquisition, the Mayor shall submit a proposed street improvement, a proposed resolution to consider the proposed improvement, and supporting documents regarding the proposed improvement to the Council for a 45-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. If the Council does not approve or disapprove the proposed improvement, in whole or in part, by resolution within this 45-day review period, the proposed improvement shall be deemed approved, and the Mayor may improve or issue a permit to improve the street.

(b) Prior to submitting the resolution to the Council required in subsection (a) of this section, the Mayor shall solicit comments on the proposed improvement from appropriate executive branch agencies and public utilities, the Advisory Neighborhood Commission within whose area the street is located, and each owner of property within the squares adjacent to the street to be improved.

(c) The supporting documents required to be submitted to the Council by subsection (a) of this section shall include at a minimum:

(1) A Surveyor's plat showing the street proposed to be improved; a listing by name, address, and lot and square numbers of each owner of property within the squares adjacent to the street to be improved; and the date and method of acquisition by the District of the street;

(2) Comments on the proposed improvement from appropriate District agencies and public utilities, including information regarding:

(A) Any building or development plans and any filed zoning cases related to the proposed improvement;

(B) The conformity of the proposed improvement and any associated development with the policies and land use designations set forth in the District of Columbia Comprehensive Plan Act of 1984;

(C) The present and future traffic needs to be served by the proposed improvement, any alternative means of serving those needs that have been considered, and an assessment of the impact of the proposed improvement and any associated development on traffic circulation, parking availability, and environmental conditions in the surrounding area;

(D) The total costs associated with the proposed improvement, including the costs of the proposed improvement and future maintenance of the street, and whether those costs are to be borne by the District or by a private party;

(E) The probable assessed value of the land to be improved for street purposes, and the existing condition and use of this land;

(F) The assessed values of the land and buildings on property within the squares that abut the street to be improved; and

(G) Any requirements or easements to be established as conditions to approval of the proposed improvement; and

(3) Certification by the Mayor or the Mayor's agent that the affected Advisory Neighborhood Commission and each owner of property within the squares adjacent to the street to be improved has been notified about the proposed improvement, and copies of any comments on the proposed improvement that have been received by the executive branch from the Advisory Neighborhood Commission, property owners, or any other persons.

(d) This section shall not apply to a proposal that consists of:

(1) Rehabilitation, repair, or reconstruction of a street that is already being used as a public right-of-way for vehicles at the time of the proposal; or

(2) Widening, realignment, or extension by 10 feet or less of the pavement of a street that is already being used as a public right-of-way for vehicles at the time of the proposal.

(Mar. 10, 1983, D.C. Law 4-201, § 306, as added May 10, 1988, D.C. Law 7-106, § 2(a), 35 DCR 2170.)

**Section references.** — This section is referenced in § 9-203.07.

**Prior Codifications.** — 1981 Ed., § 7-446.

**Legislative history of Law 7-106.** — Law 7-106, the “New Streets or Alleys Amendment Act of 1988,” was introduced in Council and assigned Bill No. 7-100, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on Febru-

ary 16, 1988 and March 1, 1988, respectively. Signed by the Mayor on March 16, 1988, it was assigned Act No. 7-148 and transmitted to both Houses of Congress for its review.

**References in text.** — The “District of Columbia Comprehensive Plan Act of 1984,” referred to in subsection (c)(2)(B), is D.C. Law 5-76.

## § 9-203.07. Improvement of streets — Rules.

(a) Within 6 months of May 10, 1988, the Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to govern the procedures and standards for acquiring and improving streets and alleys in the District of Columbia. These rules shall include the establishment of:

(1) Procedures by which notification and opportunity to comment shall be provided to the Advisory Neighborhood Commission within whose area the street or alley is located;

(2) Procedures by which notification and opportunity to comment shall be



provided to each owner of property within the squares adjacent to the street to be acquired or improved and within the square in which an alley is to be acquired or improved; and

(3) Standards for making a determination that the acquisition or improvement of a street or alley would be in the public interest, for evaluating the comments received from the affected Advisory Neighborhood Commission and property owners within whose area the street or alley is located, and for assessing the criteria set forth in § 9-203.06(c)(2).

(b) This section shall not apply to a proposal that consists of:

(1) Rehabilitation, repair, or reconstruction of a street or alley that is already being used as a public right-of-way for vehicles at the time of the proposal; or

(2) Widening, realignment, or extension by 10 feet or less of the pavement of a street or alley that is already being used as a public right-of-way for vehicles at the time of the proposal.

(Mar. 10, 1983, D.C. Law 4-201, § 307, as added May 10, 1988, D.C. Law 7-106, § 2(a), 35 DCR 2170.)

**Prior Codifications.** — 1981 Ed., § 7-447.

**Legislative history of Law 7-106.** — For legislative history of D.C. Law 7-106, see Historical and Statutory Notes following § 9-203.06.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-106, “New Street or Alley Amendment Act of 1988”, see Mayor’s Order 88-162, July 11, 1988.

## § 9-203.08. Submission of highway plan.

(a) Within 1 year of May 10, 1988, the Mayor shall submit a report to the Council on the highway plan for the District of Columbia.

(b) The report shall include:

(1) An updated list of each street that has been acquired but has not been improved and does not function as a public right-of-way for vehicles, including the location of the street, the date and method of approval of the street on the highway plan if applicable, and the date and method of acquisition of the street by the District;

(2) An updated list of each street on the highway plan that has not been acquired by the District, including the location of the street and the date and method of approval of the street on the highway plan; and

(3) A list of each unimproved acquired street and of each unacquired street on the highway plan determined by the Mayor to be no longer necessary for present or future street purposes, accompanied by proposed legislation and supporting documents to close these unimproved acquired streets and to remove these unacquired streets from the highway plan.

(Mar. 10, 1983, D.C. Law 4-201, § 308, as added May 10, 1988, D.C. Law 7-106, § 2(a), 35 DCR 2170.)

**Prior Codifications.** — 1981 Ed., § 7-448.

**Legislative history of Law 7-106.** — For legislative history of D.C. Law 7-106, see His-

torical and Statutory Notes following § 9-203.06.

**Delegation of Authority.** — Delegation of

authority pursuant to D.C. Law 7-106, "New Street or Alley Amendment Act of 1988", see Mayor's Order 88-162, July 11, 1988.

### § 9-203.09. Official street map; periodic publication; contents; availability.

(a) Within 2 years of May 10, 1988, and every 5 years thereafter, the Mayor shall publish an official street map that delineates each street and property square in the District of Columbia.

(b) This map shall distinguish between:

- (1) Streets that have been improved, constructed, or paved;
- (2) Streets that have been acquired but have not been improved, constructed, or paved; and
- (3) Streets that are on the highway plan but have not been acquired and have not been improved, constructed, or paved.

(c) This map shall be available for review in every public library in the District and be available for sale by the District of Columbia Office of Documents.

(Mar. 10, 1983, D.C. Law 4-201, § 309, as added May 10, 1988, D.C. Law 7-106, § 2(a), 35 DCR 2170.)

**Cross references.** — Council of the District of Columbia, power to name and rename highways, buildings, public places, and property, see § 1-301.01.

Streets, make a difference foundation, authorization to install granite markers in sidewalks, see § 9-1215.07.

**Prior Codifications.** — 1981 Ed., § 7-449.

**Legislative history of Law 7-106.** — For legislative history of D.C. Law 7-106, see Historical and Statutory Notes following § 9-203.06.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-106, "New Street or Alley Amendment Act of 1988", see Mayor's Order 88-162, July 11, 1988.

## *Subchapter IV. Public Space Names and Commemorative Works.*

### PART A.

#### NAMING OF PUBLIC SPACE.

### § 9-204.01. Scope of Council's authority.

Any proposed designation or change of the name of any public space or commemorative work on public space in the District of Columbia shall require approval by the Mayor and the Council as follows:

(1) The Mayor may submit a resolution to the Council proposing a designation, change of name, or commemorative work for the Council's approval.

(2) A Councilmember may introduce an act proposing a designation, change of name, or commemorative work.

(3) In accordance with paragraph (4) of this subsection, the Council may

approve legislation submitted pursuant to paragraphs (1) or (2) of this subsection following a public hearing held by the Council and in accordance with the criteria set forth in this subchapter.

(4) For commemorative works, the criteria set forth in part B of this subchapter shall be met prior to Council approval.

(Mar. 10, 1983, D.C. Law 4-201, § 401, 30 DCR 148; Apr. 4, 2001, D.C. Law 13-275, § 2(c), 48 DCR 1660.)

**Section references.** — This section is referenced in § 1-301.01, § 9-204.16, § 9-204.17, § 9-204.19, and § 10-1805.

**Prior Codifications.** — 1981 Ed., § 7-451.

**Effect of amendments.** — D.C. Law 13-275 rewrote the section which had read:

“The Council may name or change the name of any public street, alley, circle, bridge, building, park, or other public place or property referred to in this subchapter as “public space” in the District of Columbia.”

**Temporary Amendment of Section.** — For temporary (225 day) designation of street, see § 4 of Harris/Hinton Place and Bishop Samuel Kelsey Way Designation Act of 1998 (D.C. Law 12-235, April 20, 1999, law notification 46 DCR 4148).

For temporary (225 day) renaming of recreation center, see §§ 2,3 of Harry L. Thomas, Sr., Recreation Center Designation Temporary Act of 2000 (D.C. Law 13-134, June 24, 2000, law notification 47 DCR 5518).

For temporary (225 day) designation of street, see § 2 of Bishop Samuel Kelsey Way Clarification Temporary Amendment Act of 2000 (D.C. Law 13-223, April 3, 2001, law notification 48 DCR 3465).

For temporary (225 day) designation of street, see § 2 of Cady's Alley Designation Temporary Act of 2002 (D.C. Law 14-244, March 25, 2003, law notification 50 DCR 2757).

Section 2 of D.C. Law 18-143 amended section 2(2) of D.C. Law 16-52 by deleting “and the adjacent north-south portion of Champlain Street, N.W., that intersects Florida Avenue, N.W., between Square 2558 and 2562”.

Section 4(a) of D.C. Law 18-143 provided that the act shall expire after 225 days of its having taken effect.

**Temporary Addition of Section.** — Section 2 of D.C. Law 19-57 added a section to read as follows: “Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) (“Act”), and notwithstanding the second sentence in section 403a and section 407 of the Act (D.C. Official Code §§ 9-204.03a and 9-204.07), the Council symbolically designates the public street starting on the corner of Martin Luther King, Jr.,

Avenue, S.E., and Good Hope Road, S.E., moving across the 11th Street Bridge, across the Southeast Freeway, across the Southwest Freeway, onto Maine Avenue, S.W., and ending on the corner of 23rd Street, S.W., and Independence Avenue, S.W., as ‘Martin Luther King, Jr., Drive’.”

Section 4(b) of D.C. Law 19-57 provided that the act shall expire after 225 days of its having taken effect.

Temporary Enactment Section 3(b) of D.C. Law 18-272 added provisions relating to the dedication of a portion of Ingraham Street, N.E. to read as follows:

“(b) The Council’s acceptance of the dedication of land described in subsection (a) of this section is contingent upon the filing of the dedication plat in the Office of the Surveyor.”

Section 6(b) of D.C. Law 18-272 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary designation of minor street as “Harry Thomas Way”, see § 2(b) of the Dedication and Designation of Harry Thomas Way Emergency Act of 1998 (D.C. Act 12-579, January 12, 1999, 45 DCR 966).

For designation of certain dedicated land, see § 2(b) of the Dedication and Designation of Harry Thomas Way, N.E. Emergency Act of 1999 (D.C. Act 13-198, December 1, 1999, 46 DCR 10444).

For designation of certain dedicated land, see § 2(b) of the Dedication and Designation of Harry Thomas Way, N.E. Congressional Review Emergency Act of 2000 (D.C. Act 13-277, March 7, 2000, 47 DCR 2017).

For temporary (90 day) renaming of the Langley-McKinley Recreation Center as the Harry L. Thomas, Sr., Recreation Center, see § 2 of the Harry L. Thomas, Sr., Recreation Center Designation Emergency Act of 2000 (D.C. Act 13-292, February 23, 2000, 47 DCR 2061).

For temporary (90 day) amendment of section, see § 2 of the Bishop Samuel Kelsey Way Clarification Emergency Amendment Act of 2000 (D.C. Act 13-472, November 7, 2000, 47 DCR 9642).

For temporary (90 day) amendment of section, see § 2 of the John T. ‘Big John’ Williams Building Designation Emergency Act of 2000



(D.C. Act 13-529, January 11, 2001, 48 DCR 644).

For temporary (90 day) amendment of section, see § 2(c) of the Commemorative Works on Public Space Emergency Amendment Act of 2000 (D.C. Act 13-564, January 31, 2001, 48 DCR 1627).

For temporary (90 day) designation of Cady's Alley, see § 2 of Cady's Alley Designation Emergency Act of 2002 (D.C. Act 14-505, October 23, 2002, 49 DCR 10041).

For temporary (90 day) closing of a drainage alley and portions of Burns Place, S.E., see § 2(c) of Closing of a Drainage Alley and Portions of Burns Place, S.E., and C Street, S.E., and the Dedication of Burns Court, S.E., Bay Lane, S.E., and Cape Drive, S.E., (S.O. 01-2143), Emergency Act of 2002 (D.C. Act 14-607, January 7, 2003, 50 DCR 695).

For temporary (90 day) designation of the William H. Rumsey, Sr. Aquatic Center, see § 2 of William H. Rumsey, Sr. Designation Emergency Act of 2003 (D.C. Act 15-18, February 24, 2003, 50 DCR 1950).

For temporary (90 day) dedication, see § 3 of Closing, Dedication, and Designation of Public Streets and Alleys in Squares 5246, 5273, 5277, 5279, 5280, and 5281, S.O. 02-4088, Emergency Act of 2005 (D.C. Act 16-65, April 20, 2005, 52 DCR 4138).

For temporary (90 day) designation of dedicated streets, see §§ 4 and 5 of Closing, Dedication, and Designation of Public Streets and Alleys in Squares 5318, 5319, and 5320 Emergency Act of 2006 (D.C. Act 16-419, July 18, 2006, 53 DCR 6161).

For temporary (90 day) designation of dedicated streets, see §§ 3 and 4 of Dedication of Public Streets and Alleys in Squares 5318, 5319, and 5320 Congressional Review Emergency Act of 2006 (D.C. Act 16-497, October 23, 2006, 53 DCR 8840).

For temporary (90 day) amendment of section, see § 2 of Gerald W. Burke, Junior Building Designation Emergency Act of 2008 (D.C. Act 17-352, April 17, 2008, 55 DCR 5368).

For temporary (90 day) designation of dedicated streets, see §§ 2 and 3 of Old Morgan School Place, N.W. Renaming Emergency Amendment Act of 2009 (D.C. Act 18-284, January 22, 2010, 57 DCR 1171).

For temporary (90 day) addition of section, see § 3 of Closing of Public Streets and a Public Alley and Dedication and Designation of Land for Street Purposes in Squares 3765, 3767, 3768, and 3769 Emergency Act of 2010 (D.C. Act 18-510, July 30, 2010, 57 DCR 7590).

For temporary (90 day) addition of section, see § 2 of Martin Luther King, Jr., Drive Designation Emergency Act of 2011 (D.C. Act 19-130, August 1, 2011, 58 DCR 6787).

For temporary (90 day) addition of section, see § 2 of Second Rita B. Bright Family and

Youth Center Designation Emergency Act of 2011 (D.C. Act 19-160, October 11, 2011, 58 DCR 8886).

For temporary (90 day) addition of section, see § 2 of Second Park at LeDroit Designation Emergency Act of 2011 (D.C. Act 19-162, October 11, 2011, 58 DCR 8890).

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Legislative history of Law 13-275.** — Law 13-275, the "Commemorative Works on Public Space Amendment Act of 2000", was introduced in Council and assigned Bill No. 13-697, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 16, 2001, it was assigned Act No. 13-570 and transmitted to both Houses of Congress for its review. D.C. Law 13-275 became effective on April 4, 2001.

**Resolutions.** — Resolution 15-580, the "September 11 Memorial Grove on Kingman Island Approval Resolution of 2004", was approved effective June 29, 2004.

**Editor's notes.** — Designation of Raoul Wallenberg Place: Section 132 of H.R. 3067, amended by H.R. 99-419, incorporated in Pub. L. 99-190 by § 101(c), the D.C. Appropriation Act, 1986, provided that the portion of 15th Street, Southwest, located between Maine and Independence Avenues shall hereafter be known and designated as "Raoul Wallenberg Place", and any law, regulation, map, document or other record of the United States and the District of Columbia which refers to that portion of such street shall be deemed to refer to "Raoul Wallenberg Place".

Erection of signs at Sakharov Plaza: Section 132 of § 101(d) of Pub. L. 99-591, the D.C. Appropriation Act, 1987, provided that the District of Columbia shall construct three signs which contain the words, "Sakharov Plaza". These signs shall be placed immediately above existing signs on the corners of 16th and L and 16th and M Streets, Northwest. These should be similar to signs used by the city to designate the location of Metro stations. In addition, a sign shall be placed on city property directly adjacent to, or directly in front of, 1125 16th Street designating the actual location of Andrei Sakharov Plaza. Hereafter the proper address of the Soviet Embassy in Washington, District of Columbia, shall be No. 1 Andrei Sakharov Plaza.

Designation of Carlos Manuel Rosario Adult Education Center: Section 3 of D.C. Law 8-177 provided that, pursuant to § 9-204.01, the Council hereby renames the adult education center presently known as the Gordon Adult Education Center as the "Carlos Manuel Rosa-

rio Adult Education Center". Section 4 of D.C. Law 8-177 provided that after October 2, 1990, the Surveyor of the District of Columbia shall record in the Office of the Surveyor "Carlos Manuel Rosario Adult Education Center" as the name of the adult education center located at 35th and T Streets, N.W. The Council requests the Board of Education to erect appropriate signs at this adult education center in accordance with this act.

Designation of 7th Street, S.E., Oxon Run Road, S.E., and Edward Eugene Cornwell, Jr., Drive, S.E.: Section 3 of D.C. Law 8-178 provided that pursuant to § 9-204.01, the minor streets created by the dedications referred to in § 2 of D.C. Law 8-178 shall be named, respectively, as 7th Street, S.E., Oxon Run Road, S.E., and Edward Eugene Cornwell, Jr., Drive, S.E., as shown on the Surveyor's plat filed under S.O. 89-276. Section 4(b) of D.C. Law 8-178 provided that if the covenant required by § 2 of the act is not filed within 2 years of October 2, 1990, the act shall expire.

Designation of Juanita E. Thornton-Shepherd Park Branch Library: Section 2 of D.C. Law 9-78 provided that the Council renamed the Shepherd Park Branch of the District of Columbia Public Library, at 7420 Georgia Avenue, N.W., as the Juanita E. Thornton-Shepherd Park Branch of the District of Columbia Public Library. Section 4 of D.C. Law 9-78 provided that the act shall apply on September 15, 1992.

Designation of Ridgcrest Court: Section 2 of D.C. Law 9-242 provided that pursuant to this section, the Council of the District of Columbia designates the portion of Shipley Terrace, S.E., between the 1900 block and the 2100 block, as "Ridgcrest Court."

Designation of Fraser Court: Section 2 of D.C. Law 10-93 provided that pursuant to §§ 9-204.01 and 9-204.03, the Council of the District of Columbia names the public alley in Square 110, running north to south between the 1900 block of R Street, N.W. and S Street, N.W. as "Fraser Court."

Designation of Bishop Aimilianos Laloussis Park: Section 2 of D.C. Law 12-157 provided that, pursuant to this section, the small park located at 36th Street, Massachusetts Avenue and Garfield Street, N.W. (Reservation 330 N) is designated as the "Bishop Aimilianos Laloussis Park," in honor of Bishop Laloussis' humanitarian service to the Washington, D.C. community from 1934 to 1960.

Designation of Francis Anderson Gregory Regional Branch Library: Section 2 of D.C. Law 6-150 provided that the Council renamed the regional branch library known as the Fort Davis Regional Branch Library located at 3660 Alabama Avenue, S.E., Washington, D.C., as the Francis Anderson Gregory Regional Branch Library in recognition of the contributions of

Francis Anderson Gregory in the field of education.

Designation of Patricia Roberts Harris Drive: Section 3 of D.C. Law 7-102 provided that pursuant to § 9-204.01, the minor street created by the dedication referred to in section 2 shall be named Patricia Roberts Harris Drive. Section 2 of D.C. Law 7-102 provided that pursuant to § 9-203.04, the Council of the District of Columbia accepts the dedication of land and approves the establishment of building restriction lines necessary to create a minor street in Square 4325 connecting 31st Place, N.E., and Fort Lincoln Drive, N.E., in Fort Lincoln New Town, as shown in the Surveyor's plat filed under S.O. 85-189.

Designation of Officer Kevin J. Welsh Memorial Bridge: Section 2 of D.C. Law 7-193 provided that the Council of the District of Columbia designates the western structure of the 11th Street Bridge over the Anacostia River, which is part of Interstate 295 southbound, as the Officer Kevin J. Welsh Memorial Bridge.

Designation of Washington Avenue: Section 2 of D.C. Law 8-39 provided that pursuant to § 9-204.01, Canal Street, S.W., between Independence Avenue, S.W. and South Capital Street, shall be named Washington Avenue, S.W.

Designation of Grant Place, N.E., Burnham Place, N.E., Barnes Street, N.E., Albert Irvin Cassell Place, N.E., Franklin Delano Roosevelt Place, N.E., and Parkside Place, N.E.: Section 4 of D.C. Law 8-81 provided that the minor streets created by the closings referred to in § 2 of D.C. Law 8-81 and by dedications referred to in § 3 of D.C. Law 8-81 shall be named or renamed Grant Place, N.E., Burnham Place, N.E., Barnes Street, N.E., Albert Irvin Cassell Place, N.E., Franklin Delano Roosevelt Place, N.E., and Parkside Place, N.E., as shown on the Surveyor's plat filed under S.O. 88-212.

Designation of Officer Dana E. Harwood Memorial Pier: Section 2 of D.C. Law 8-115 provided that pursuant to § 9-204.01, the Council of the District of Columbia designated Pier 5, which is located at 550 Maine Avenue S.W., as the Officer Dana E. Harwood Memorial Pier.

Designation of Windy Court and Derby Lane: Section 2 of D.C. Law 8-174 provided that pursuant to § 9-204.01, the Council names the public alleys in Square 991 bounded by 11th Street, S.E., 12th Street, S.E., South Carolina Avenue, S.E., and D Street, S.E., as "Windy Court" and "Derby Lane", respectively, as shown on the Surveyor's plat filed under S.O. 89-282.

Designation of Naylor Court, N.W.: Section 2 of D.C. Law 8-194 provided that pursuant to § 9-204.01 and notwithstanding § 9-204.03a, the north-south public alleys in Square 367, bounded by N Street, N.W., O Street, N.W., 9th



Street, N.W., and 10th Street, N.W., are hereby designated as "Naylor Court, N.W."

Designation of Dwight David Eisenhower Freeway: Section 2 of D.C. Law 8-223 provided that pursuant to § 9-204.01, a portion of Interstate 395 known as the Southwest Freeway, which is located between the 14th Street bridges and the 3rd Street tunnel, known as the Center Leg Freeway, shall be named "Dwight David Eisenhower Freeway"; and that a meaningful part of the full name cited in subsection (a) of this section may be used on each street sign that designates this name.

Designation of H. Carl Moultrie I Courthouse of the District of Columbia: Section 3 of D.C. Law 8-230 provided that pursuant to § 9-204.01, the District of Columbia Courthouse is hereby named the "H. Carl Moultrie, I, Courthouse of the District of Columbia" in honor of H. Carl Moultrie, I.

Designation of Spring of Freedom Street: Section 2 of D.C. Law 9-59 provided that pursuant to § 9-204.01, the portion of Linnean Avenue, N.W., in Ward 3 between Tilden Street, N.W., and Shoemaker Street, N.W., is designated as the "Spring of Freedom Street".

Designation of Queen's Stroll Place: D.C. Law 9-61 provided that pursuant to § 9-204.01, Drake Place, S.E., in Ward 7, parallel and between D and E Streets, S.E., and between 50th and 54th Streets, S.E., is designated as "Queen's Stroll Place".

Designation of Hugh A. Johnson, Jr., Park: Section 2 of D.C. Law 9-68 provided that the park located at South Dakota Avenue and Irving Street, N.E., shall be named the "Hugh A. Johnson, Jr., Park".

Designation of Carbery Place: Section 2 of D.C. Law 9-117 provided that pursuant to this section, the Council of the District of Columbia names the public alley that abuts lot 29, in Square 812, bounded by 4th Street, 5th Street, and D Street, N.E., as "Carbery Place".

Designation of Zei Alley: Section 2 of D.C. Law 9-162 provided that the Council of the District of Columbia designates the public alley in Square 220, bounded by 14th Street, 15th Street, H Street, and I Street, N.W., running east to west between 14th and 15th Streets, N.W., in Ward 2, as Zei Alley.

Designation of Islamic Way: Section 2 of D.C. Law 9-172 provided that the Council of the District of Columbia designates the 1500 block of 4th Street, N.W., between P and Q Streets, N.W., in Ward 5, as Islamic Way.

Designation of Estelle Simms, Bloomingdale, Edgewood, Eckington (BEE) Civic Park: Section 2(a) of D.C. Law 9-195 provided that the small park located at Rhode Island Avenue and U Street, N.W. (Lot 1, Square 3112), shall be named the Estelle Simms, Bloomingdale, Edgewood, Eckington (BEE) Civic Park.

Section 2(b) of D.C. Law 9-195 provided that a meaningful part of the full name cited in section 2(a) of Law 9-195 may be used on a park sign that designates this name.

Designation of Mitch Snyder Place: Section 2 of D.C. Law 9-220 provided that the Council of the District of Columbia designated the 400 block of 2nd Street, N.W., between D and E Streets, N.W., as Mitch Snyder Place. The 400 block of 2nd Street, N.W., shall concurrently be known as 2nd Street and Mitch Snyder Place.

Designation of Malcolm X Avenue: Section 2 of D.C. Law 9-225 provided that the Council of the District of Columbia designates the portion of Portland Street, S.E., between 9th Street, S.E. and South Capitol Street, S.E., as Malcolm X Avenue.

Designation of John A. Wilson Building: Section 3 of D.C. Law 10-69 provided that pursuant to § 9-204.01, the District Building, located at 1350 Pennsylvania Avenue, N.W., is hereby renamed the "John A. Wilson Building."

Designation of St. Francis de Sales Place: Section 2 of D.C. Law 10-81 provided that pursuant to § 9-204.01, the Council of the District of Columbia designates the 2000 block of Fulton Place, N.E., as "St. Francis de Sales Place."

Designation of Theodore R. Hagans, Jr., Center: Section 2 of D.C. Law 10-141 provided that pursuant to this section, the Fort Lincoln Cultural Center located at 31st Place and Fort Lincoln Drive, N.E., shall be named the Theodore R. Hagans, Jr., Center.

Dedication of Woodcrest Drive: Section 3 of D.C. Law 10-197 provided that the minor street created by the dedication referred to in § 2 of that act shall be named Woodcrest Drive.

Designation of Maurice T. Turner, Jr., Education and Training Center: Section 2 of D.C. Law 10-239 provided that pursuant to § 9-204.01, the Metropolitan Police Academy located 4665 Blue Plains Drive, S.W., is designated the "Maurice T. Turner, Jr., Education and Training Center."

Dedication of Harry Thomas Way: Section 2 of D.C. Law 12-251 accepted, on a temporary basis, the dedication of land located between Eckington Place, N.E. and Third Street, N.E., as a public street, and designated the street as Harry Thomas Way.

Section 4(b) of D.C. Law 12-251 provided that the act shall expire after 225 days of its having taken effect.

Designation of Henry J. Daly Building: Section 2 of D.C. Law 11-120 provided that pursuant to this section, the Municipal Center located at 300 Indiana Avenue, N.W., is designated the "Henry J. Daly Building."

Designation of Joseph H. Cole Fitness Center: Section 2 of D.C. Law 11-251 provided that pursuant to this section, the Council of the District of Columbia designated the recreation



center located at 1200 Morse Street, N.E., formerly known as the Wheatley Recreation Center, as the "Joseph H. Cole Fitness Center."

Designation of Dave Clarke School of Law: Section 3 of D.C. Law 12-85 provided that pursuant to this section, the Council of the District of Columbia designates the UDC School of Law, at 4250 Connecticut Avenue, N.W., the Dave Clarke School of Law.

Designation of Dwight Anderson Mosley Athletic Field: Section 3 of D.C. Law 12-105 provided that, pursuant to this section, the Council of the District of Columbia designates the outdoor recreational facilities of Taft Junior High School, at 18th and Perry Streets, N.E., the Dwight Anderson Mosley Athletic Field.

Designation of Brian T.A. Gibson Memorial Building: Section 3 of D.C. Law 12-73 provided that pursuant to this section, the Council of the District of Columbia designates the Fourth District Police Headquarters, located at 6001 Georgia Avenue, N.W., as the Brian T. A. Gibson Memorial Building.

Designation of James M. McGee, Jr. Street, S.E.: Section 2 of D.C. Law 12-83 provided that pursuant to this section, the Council of District of Columbia designates the 2700 block of Irving Street, S.E. as "James M. McGee, Jr. Street S.E."

Designation of Ronald H. Brown Middle School: Section 3 of D.C. Law 12-84 provided that pursuant to this section, the Council hereby renames the Daniel C. Roper Middle School, located at 4800 Meade Street, N.E., as the "Ronald H. Brown Middle School."

Designation of Old Rock Creek Church Road, N.W.: Section 2 of D.C. Law 12-166 provided that pursuant to this section, the unnumbered block of Rock Creek Church Road, N.W. between North Capitol and Webster Streets, N.W. is designated as "Old Rock Creek Church Road, N.W."

Designation of Harris/Hinton Place N.W.: Section 3 of D.C. Law 12-235 provided that pursuant to this section, the Council of the District of Columbia designated the unit block of Hanover Place N.W. as Harris/Hinton Place, N.W.

Designation of Bishop Samuel Kelsey Way, N.W.: Section 4 of D.C. Law 12-235, as amended by section 10 of D.C. Law 13-313 provided that pursuant to this section, the Council of the District of Columbia designated the 1400 block of Park Road, N.W., as Bishop Samuel Kelsey Way, N.W. Designation of Walter C. Pierce Community Park: Section 2 of D.C. Law 11-1 provided that the Community Park West located at 2700 Adams Mill Road, N.W., at the intersection of Ontario Place, N.W. (Square 2547 and Lot 810), shall be named the "Walter C. Pierce Community Park."

Section 3 of D.C. Law 11-1 provided that a meaningful part of the full name "Walter C.

Pierce Community Park" may be used on a park sign designating the name of the park.

Section 4 of D.C. Law 11-1 provided that the Secretary of the Council of the District of Columbia shall transmit a copy of the act, after it becomes effective, to the Surveyor of the District of Columbia, who shall record in the Office of the Surveyor, "Walter C. Pierce Community Park" as the name of the park.

Designation of Isle of Patmos Plaza: Section 2 of D.C. Law 11-41 provided that the Council of the District of Columbia designates the 1200 block of Douglas Street, N.E., as the "Isle of Patmos Plaza".

Section 3 of D.C. Law 13-108 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Code § 7-451 § 9-204.01, 2001 Ed. ) ('the Act'), and notwithstanding the requirements set forth in section 405 of the Act (D.C. Code § 7-455 § 9-204.04, 2001 Ed. ) that no public space shall be named in honor of any person who has been deceased less than 2 years, the Council of the District of Columbia designates the triangular park located at the intersection of 15th Street, S.E., G Street, S.E., and Potomac Avenue, S.E. (Reservation 255-n) as the 'Dennis Dolinger Memorial Park.'"

Section 2 of D.C. Law 13-282 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, the Council of the District of Columbia designates the unit 100 block of 9th Street, N.W., and the unit 100, 200, 300, and 400 blocks of 9th Street, S.W., commonly known as the Ninth Street Tunnel, as the 'Anthony W. Simms Tunnel'."

Sections 2 to 4 of D.C. Law 13-284 provided: "Sec. 2. Pursuant to sections 401 and 403 of the Street and Alley Closing and Acquisition Procedures Act of 1982 the Council of the District of Columbia designates the alley that runs North-South between 14th and 15th Streets, N.W., as 'Historic Waverly Alley'."

"Sec. 3. Pursuant to sections 401 and 403 of the Street and Alley Closing and Acquisition Procedures Act of 1982 the Council of the District of Columbia designates the alley that runs East-West between and parallel to U and T Streets, N.W., and between 14th and 15th Streets, N.W., as 'Paloma Way'."

"Sec. 4. Pursuant to sections 401 and 403 of the Street and Alley Closing and Acquisition Procedures Act of 1982 the Council of the District of Columbia designates the alley that runs North-South between U and T Streets, N.W., and to the east of Historic Waverly Alley, as 'Treto Way.'"

Section 3 of D.C. Law 13-295 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982 the Council of the District of Columbia designates the alley that runs North-South between U and T Streets, N.W., and to the east of Historic Waverly Alley, as 'Treto Way.'"

nates the triangular park located at the intersection of Western Avenue, Ellicott Street, N.W. and 48th Street, N.W., in Ward 3, (Reservation 454-n) as the 'Galen Tait Memorial Park'."

Section 3 of D.C. Law 14-32 provided: "Sec. 3. Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code 9-204.01), the Council designates the park in the 5100 block of Illinois Avenue, N.W., at 9th Street, N.W., as the 'Lorenzo Larry Allen Memorial Park'."

Section 3 of D.C. Law 14-39 provided: "Sec. 3. Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code 9-204.01) ('the Act'), the Council of the District of Columbia designates the triangular park located at the intersection of 9th Street, N.W., Q Street, N.W., and Rhode Island Avenue, N.W., (Reservation 157), as the 'Carter G. Woodson Memorial Park'." Designation of Washington Place, N.E.: Section 5 of D.C. Law 14-103 provided that pursuant to this section, a portion of South Ave., N.E. is closed and designated as Washington Place, N.E.

Section 2 of D.C. Law 14-123 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, the Engine Company No. 6 fire station, located at 1300 New Jersey Avenue, N.W., is hereby designated the 'John T. 'Big John' Williams Building'."

Section 2 of D.C. Law 14-127 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, and notwithstanding section 407 of the Act, the Council of the District of Columbia designates the plaza formed by the sidewalks on the north side of Square 441 and the south side of Square 440 of the 600 block of T Street, N.W., between Florida Avenue, N.W., and 7th Street, N.W., as 'Edward 'Duke' Ellington Plaza'." Designation of Cady's Alley: Section 2 of D.C. Law 14-272 provided: "Pursuant to sections 401 and 403 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03), the Council of the District of Columbia designates the alley that runs East-West between 33rd and 34th Streets, N.W., and parallel to M Street and Water Street, N.W. as 'Cady's Alley'". Designation of Carl Wilson Basketball Court: Section 2 of D.C. Law 14-292 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the basketball court at the Hardy Recreation Center is hereby named the 'Carl Wilson Basketball Court'." Designation of William H. Rumsey, SR. Aquatic Center: Section 2 of D.C. Law 15-4 provided: "Pursuant to section

401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01)('Act'), and notwithstanding section 405 of the Act ( D.C. Official Code § 9-204.05) that no public space shall be named in honor of any person who has been deceased less than 2 years, the Council designates the Capitol East Natatorium, located at 635 North Carolina Avenue, S.E., as the 'William H. Rumsey, Sr. Aquatic Center'." Designation of Marvin Caplan Memorial Park: Section 2 of D.C. Law 15-6 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the Council designates the park bounded by Alaska Avenue, N.W., Holly Street, N.W., and 13th Street, N.W., as the 'Marvin Caplan Memorial Park'." Designation of Henry Kennedy Memorial Tennis Courts: Section 2 of D.C. Law 15-126 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01)('Act'), the Council designates the tennis courts located at the corner of 3rd and Van Buren Streets, N.W., as the 'Henry Kennedy Memorial Tennis Courts'."

Section 2 of D.C. Law 15-144 provided: "Sec. 2. (a) Notwithstanding any provision of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-202.01 et seq.) ('Act'), the Council orders the closing of the 600 block of I Street, S.E., as shown on the revised Surveyor's plat filed under S.O. 95-251.

"(b) Notwithstanding any provision of the Act, the Council accepts the dedication of land for street purposes, which is the existing functioning street that is located immediately north of and parallel to the Southeast Freeway between 6th Street, S.E., and 7th Street, S.E., and designates this street as 'Virginia Avenue, S.E.' as shown on the revised Surveyor's plat filed under S.O. 95-251.

Designation of Freedom Way: Section 2 of D.C. Law 15-168 provided: "Pursuant to sections 401 and 403 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03), the Council designates the alley bound by Potomac Avenue, S.E., Kentucky Avenue, S.E., 15th Street, S.E., and Pennsylvania Avenue, S.E., in Ward 6, as 'Freedom Way'."

Section 3 of D.C. Law 16-5 provided

"Sec. 3. Pursuant to sections 302 and 401 of the Act, the Council accepts the dedication of the streets and alleys in Squares 5246, 5272, 5273, 5276, 5277, 5279, 5280, and 5281, as shown on the Surveyor's plats filed under S.O. 02-4088, and dedicates the streets as exten-



sions of 57th Street, S.E., 57th Place, S.E., and Blaine Street, N.E., as shown on the Surveyor's plats in the S.O. File 02-4088. The approval of the Council of this dedication is contingent upon the satisfaction of all the conditions set forth in the official S.O. File 02-4088."

Designation of Old Morgan School Place: Section 2 of D.C. Law 16-52, as amended by section 2 of D.C. Law 18-166, provided:

"Sec. 2. Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), and notwithstanding section 304 (D.C. Official Code § 9-203.04), the Council designates:

"(1) The alley in Square 2562 that runs east-west from Champlain Street, N.W., to Ontario Road, N.W., parallel to Florida Avenue, N.W., as a street; and

"(2) The street, currently designated as an alley, that runs east-west between Champlain Street, N.W., and Ontario Road, N.W., parallel to Florida Avenue, N.W., in Square 2562, as 'Old Morgan School Place.'"

Designation of Walt Whitman Way: Section 2 of D.C. Law 16-54 provided: "Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201, D.C. Official Code §§ 9-204.01 and 9-204.03a), the Council symbolically designates F Street, N.W., between 7th Street, N.W., and 8th Street, N.W., as Walt Whitman Way."

Designation of National Opera Street: Section 2 of D.C. Law 16-92 provided: "Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a), the Council symbolically designates the 2700 block of F Street, N.W., as 'National Opera Street.'"

Designation of Walter E. Washington Way: Section 2 of D.C. Law 16-106 provided: "Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a), the Council symbolically designates the 300 block of 13 1/2 Street, N.W., as 'Walter E. Washington Way.'"

Designation of Home of Walter Washington Way: Section 2 of D.C. Law 16-107 provided: "Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a), the Council symbolically designates the 400 block of J Street, N.W., as 'Home of Walter Washington Way.'"

Designation of Terry Hairston Run: Section 2 of D.C. Law 16-108 provided: "Sec. 2. Pursuant to section 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982,

effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a), the Council symbolically designates the 300 block of Burns Street, S.E., as 'Terry Hairston Run.'"

Designation of Carolyn Llorente Memorial Park: Section 2 of D.C. Law 16-109 provided: "Sec. 2. Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the Council designates the park bounded by Columbia Road, N.W., 19th Street, N.W., and Wyoming Avenue, N.W., as the 'Carolyn Llorente Memorial Park.'"

Designation of Marvin Gaye Recreation Center and Playground: Section 2 of D.C. Law 16-177 provided: Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code s 9-204.01), the Council designates the Watts Branch Recreation Center and the Watts Branch Playground located within the Marvin Gaye Park, as the 'Marvin Gaye Recreation Center' and 'Marvin Gaye Playground,' respectively."

Designation of Kimi Gray Court, S.E., and Ivory Walters Lane, S.E.; Section 3 of D.C. Law 16-180 provided: "Pursuant to section 401 of the Act (D.C. Official Code § 9-204.01), and as set forth in the official file of S.O. 05-8132, the Council designates:

"(1) The new public horseshoe street off of 51st Street, S.E., as 'Kimi Gray Court, S.E.'; and

"(2) The new public street between G Street, S.E., and 51st Street, S.E., as 'Ivory Walters Lane S.E.'"

Designation of Walter E. Washington Convention Center: Section 2 of D.C. Law 16-283 provided: "Pursuant to sections 401 and 405 of the Street and Alley Closing Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D. C. Official Code §§ 9-204.01 and 9-204.05), the Council designates the Washington Convention Center, located at 801 Mount Vernon Place, N.W., as the 'Walter E. Washington Convention Center.'"

Designation of Lorraine H. Whitlock Memorial Bridge: Section 2 of Law 17-11 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the Council designates the Benning Road Bridge, located between 34th Street, N. E., and Minnesota Avenue, N.E., as the 'Lorraine H. Whitlock Memorial Bridge.'"

Designation of Calvin Woodland Sr. Place: Section 2 of D.C. Law 17-36 provided: "Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a)



(‘Act’), and notwithstanding section 407 of the Act (D.C. Official Code § 9-204.07), the Council symbolically designates Hartford Street, S.E., from Alabama Avenue, S.E., to 22nd Street, S.E., as ‘Calvin Woodland Sr. Place’.”

Designation of Adams Alley: Section 2 of D.C. Law 17-37 provided: “Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the Council designates the alley in Square 2566 that runs east to west from 17th Street, N.W., toward Ontario Road, N.W., and parallel to Kalorama Road, N.W., and Euclid Street, N.W., as ‘Adams Alley’.”

Designation of Joe Pozell Square: Section 2 of D.C. Law 17-38 provided: “Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a), the Council symbolically designates the intersection at Wisconsin Avenue, N.W., and M Street, N.W., as ‘Joe Pozell Square’.”

Designation of Hattie Holmes Senior Wellness Center: Section 2 of D.C. Law 17-92 provided: “Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201, D.C. Official Code § 9-204.01), the site of the old Kennedy Theater, at 324 Kennedy Street, N.W., in Ward 4, is designated as the ‘Hattie Holmes Senior Wellness Center’.”

Designation of E.W. Stevenson, Sr. Boulevard: Section 2 of D.C. Law 17-178 provided: “Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) (‘Act’), and notwithstanding section 407 of the Act (D.C. Official Code § 9-204.07), the Council symbolically designates the 2500 block of 12th Place, S.E., as ‘E.W. Stevenson, Sr. Boulevard’.”

Designation of Gerard W. Burke, Jr. Building: Section 2 of D.C. Law 17-182 provided: “Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the Metropolitan Police Department Third District Substation, located at 750 Park Road, N.W., in Ward 1, is designated as the ‘Gerard W. Burke, Jr. Building’.”

Designation of Rev. M. Cecil Mills Way: Section 2 of Law 17-194 provided: “Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) (‘Act’), and notwithstanding section 407 of the Act (D.C. Official Code § 9-204.07), the Council

symbolically designates the 1600 block of Newton Street, N.W. as ‘Rev. M. Cecil Mills Way’.”

Designation of the Ethel Kennedy Bridge: Section 2 of D.C. Law 17-195 provided: “Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01) (‘Act’), and notwithstanding section 405 of the Act (D.C. Official Code § 9-204.05), the Benning Road Bridge, over the Anacostia River, is named the ‘Ethel Kennedy Bridge’.”

Designation of Abe Pollin Way: Section 2 of D.C. Law 17-200 provided: “Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) (‘Act’), and notwithstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), the Council symbolically designates the 600 block of F Street, N.W., between 6th Street, N.W., and 7th Street, N.W., in Ward 2, as ‘Abe Pollin Way’.”

Designation of Dr. Vincent E. Reed Auditorium: Section 3 of D.C. Law 17-203 provided: “Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01) (‘Act’), and notwithstanding section 405 of the Act (D.C. Official Code § 9-204.05), the auditorium at Benjamin Banneker Academic High School, located at 800 Euclid Street, N.W., in Ward 1, is named the ‘Dr. Vincent E. Reed Auditorium’.”

Designation of Lauzun’s Legion Bridge: Section 2 of D.C. Law 17-256 provided: “Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the Council designates the P Street Bridge, bounded by P Street, N.W., and 23rd Street, N.W., in Ward 2, as the ‘Lauzun’s Legion Bridge’.”

Designation of Maury Wills Baseball Field: Section 2 of D.C. Law 17-257 provided: “Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01) (‘Act’), and notwithstanding section 405 of the Act (D.C. Official Code § 9-204.05), the Council designates the baseball field at the Banneker Recreation Center, located at the 2500 block of Georgia Avenue, N.W., in Ward 1, as the ‘Maury Wills Baseball Field’.”

Designation of Marvin Gaye Way: Section 2 of D.C. Law 17-261 provided: “Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) (‘Act’), and notwithstanding section 407 of the Act

(D.C. Official Code § 9-204.07), the Council symbolically designates the 5200 block of Foote Street N.E., between Division Avenue, N.E., and 52nd Street, N.E., in Ward 7, as 'Marvin Gaye Way'."

Designation of Lola Beaver Memorial Park: Section 2 of D.C. Law 17-267 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the Council designates the park in Square 0918, bounded by Massachusetts Avenue, N.E., 9th Street, N.E., and A Street, N.E., in Ward 6, as 'Lola Beaver Memorial Park'."

Designation of Jackson H. Gerhart House: Section 2 of D.C. Law 17-268 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the Council designates the Engine Company No. 17 fire station, located at 1227 Monroe Street, N.E., in Ward 5, as the 'Jackson H. Gerhart House'."

Designation of Fire Chief Burton W. Johnson Building: Section 2 of D.C. Law 17-272 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the Council designates Engine Company No. 4 fire station, located at 2501 Sherman Avenue, N.W., in Ward 1, as the 'Fire Chief Burton W. Johnson Building'."

Designation of Langston Hughes Way: Section 2 of D.C. Law 17-323 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01) ('Act'), and notwithstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), the Council symbolically designates V Street, N.W., from 13th Street, N.W., to 14th Street, N.W., in Ward 1, as 'Langston Hughes Way'."

Designation of Duke Ellington Way, Chuck Brown Way, and Cathy Hughes Way at the Howard Theater: Section 2 of D.C. Law 17-329 provided:

"Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), the Council symbolically designates:

"(1) Notwithstanding section 407 of the Act (D.C. Official Code § 9-204.07), T Street, N.W., from 6th Street, N.W., to 7th Street, N.W., as 'Duke Ellington Way'; and

"(2) Notwithstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), 7th Street, N.W., from T Street, N.W., to Florida Avenue, N.W., as 'Chuck Brown

Way', and 7th Street, N.W., from § Street, N.W., to T Street, N.W., as 'Cathy Hughes Way'."

Designation of Reverend Dr. Luke Mitchell, Jr. Way: Section 2 of D.C. Law 17-330 provided: "Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), the Council symbolically designates the 700 block of 58th Street, N.E., between Nannie Helen Burroughs Avenue, N.E., and Eastern Avenue, N.E., in Ward 7, as 'Reverend Dr. Luke Mitchell, Jr. Way'."

Designation of the Andrus House: Section 2 of D.C. Law 17-331 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01) ('Act'), the Council designates the home, located at 2635 18th Street, N.E., in Ward 5, as 'The Andrus House', in honor of Dr. Ethel Percy Andrus, founder of AARP."

Designation of Taxation Without Representation Street: Section 2 of D.C. Law 17-332 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the Council renames the portion of South Capitol Street, S.E., between N Street, S.E., and Potomac Avenue, S.E., in Ward 6, as 'Taxation Without Representation Street, S.E.'."

Designation of Dr. Purvis J. Williams Auditorium and Athletic Field: Section 2 of D.C. Law 17-333 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01) ('Act'), and not withstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), the Council designates the auditorium and the athletic field located at Joel Elias Spingarn Senior High school, located at 2500 Benning Road, N.E., in Ward 5, as the 'Dr. Purvis J. Williams Auditorium' and the 'Dr. Purvis J. Williams Athletic Field'."

Designation of Hal Gordon Way: Section 2 of D.C. Law 17-334 provided: "Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), the Council symbolically designates the 100 block of 15th Street, S.E., in Ward 6, as 'Hal Gordon Way,' in honor of the late Harold J. Gordon."

Designation of Public Streets at The Yards: Section 5 of D.C. Law 18-39 provided: "Pursu-



ant to section 401 (D.C. Official Code § 9-204.01) and notwithstanding section 402 of the Act (D.C. Official Code § 9-204.02), the dedication of land as described in section 3 and on the Surveyor's plat filed in S.O. 07-8802 shall be designated as follows:

"(1) The eastern extension of Tingey Street, S.E., between 4th Street, S.E., and 5th Street, S.E., shall be designated as Tingey Street, S.E.

"(2) The western extension of N Street, S.E., (Closed) between 1st Street, S.E., and Canal Street, S.E., and between Canal Street, S.E., and Public Space in Square W-771 shall be designated as N Street, S.E.

"(3) The southern most street running east-west shall be designated as Water Street, S.E.

"(4) The eastern most street running north-south shall be designated as 5th Street, S.E.

"(5) The southern extension of 4th Street, S.E., shall be designated as 4th Street, S.E.

"(6) The north-south street between Public Space in Square W-771 and 4th Street, S.E., shall be designated as 3rd Street, S.E.

"(7) The western most street running north-south shall be designated as 2nd Street, S.E."

Designation of Bloomington Court Alley: Section 2 of D.C. Law 18-67 provided: "Pursuant to sections 401 and 403 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01 and § 9-204.03), the Council designates the alley in Square 3116, bordered by the 100 blocks of U Street, N.W., and V Street, N.W., and the 2000 blocks of 1st Street, N.W., and Flagler Place, N.W., as 'Bloomingdale Court'."

Designation of Loree H. Murray Way: Section 2 of D.C. Law 18-79 provided: "Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding section 405 (D.C. Official Code § 9-204.05) of the Act, the Council symbolically designates the 1100 block of 7th Street, N.E., as 'Loree H. Murray Way'."

Designation of Msgr J. Mundell Way: Section 2 of D.C. Law 18-171 provided:

"Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding section 407 of the Act (D.C. Official Code § 9-204.07), the Council symbolically designates the 800 block of N Street, N.W., in Ward 2, as 'Msgr J. Mundell Way'."

Designation of Ronald H. Brown Way: Section 2 of D.C. Law 18-172 provided:

"Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01

and 9-204.03a) ('Act'), and notwithstanding section 407 of the Act (D.C. Official Code § 9-204.07), the Council symbolically designates the 200 and 300 blocks of 14th Street, N.W., in Ward 2, as 'Ronald H. Brown Way'."

Designation of Rev. Dr. Edward Thomas Way: Section 2 of D.C. Law 18-173 provided:

"Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding section 407 of the Act (D.C. Official Code § 9-204.07), the Council symbolically designates the 2700 block of 13th Street, N.W., as 'Rev. Dr. Edward Thomas Way'."

Designation of Tenth Street Community Park: Section 2 of D.C. Law 18-175 provided:

"Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the Council designates the park in Lot 874, Square 369, bounded by 10th Street, N.W., L Street, N.W., and M Street, N.W., in Ward 2, as 'Tenth Street Community Park'."

Designation of Mamie "Peanut" Johnson Field: Section 2 of D.C. Law 18-243 provided: "Pursuant to section 401 of the Street and Alley Closing Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; DC Official Code § 9-204.01) ('Act'), and notwithstanding section 405 of the Act (D.C. Official Code § 9-204.05), the Council designates the field located at the Rosedale Recreation Center at 1700 Gales Street, N.E., in Ward 6, as the 'Mamie 'Peanut' Johnson Field'."

Designation of Duke Ellington Park: Section 2 of D.C. Law 18-244 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the Council designates the park bounded by New Hampshire Avenue, N.W., M Street, N.W., and 21st Street, N.W., in Ward 2, as 'Duke Ellington Park'."

Designation of Bishop William F. Hart, Jr. Way: Section 2 of D.C. Law 18-245 provided: "Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), the Council symbolically designates the 1000 block of V Street, N.W., as 'Bishop William F. Hart, Jr. Way'."

Designation of Ingraham Street, N.E.: Section 3 of D.C. Law 18-247 provided:

"(a) Pursuant to sections 302 and 401 of the Act (D.C. Official Code §§ 9-203.02 and 9-204.01), and notwithstanding the requirements set forth in sections 303 and 304 of the



Act (D.C. Official Code §§ 9-203.03 and 9-203.04), the Council accepts the dedication of the new portion of Ingraham Street, N.E., as shown on the Surveyor's dedication plat filed under S.O. 09-11837, and designates the street as 'Ingraham Street, N.E.'."

"(b) The Council's acceptance of the dedication of land described in subsection (a) of this section is contingent upon the filing of the dedication plat in the Office of the Surveyor."

Designation of PeterBug Matthews Way: Section 2 of D.C. Law 18-248 provided: "Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), the Council symbolically designates the 400 block of 13th Street, S.E., as 'PeterBug Matthews Way'."

Designation of Dorothy Irene Height Memorial Library: Section 2 of D.C. Law 18-249 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01) ('Act'), and not withstanding section 405 of the Act (D.C. Official Code § 9-204.05), the Council designates the Benning Neighborhood Library, located at 3935 Benning Road, N. E., in Ward 7, as the 'Dorothy Irene Height Memorial Library'."

Designation of Frank Kameny Way: Section 2 of D.C. Law 18-250 provided: "Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), the Council symbolically designates the 1600 block of 17th Street, N.W., between Q Street, N.W., and R Street, N.W., as 'Frank Kameny Way'."

Designation of Rev. Donald Robinson Field: Section 2 of D.C. Law 18-325 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01) ('Act'), and notwithstanding section 405 of the Act (D.C. Official Code § 9-204.05), the Council designates the athletic field located at the Edgewood Recreation Center at 3rd Street, N.E., and Everts Street, N.E., in Ward 5, as the 'Rev. Donald Robinson Field'."

Designation of Bernice Elizabeth Fonteneau "Miss B's" Senior Wellness Center: Section 2 of D.C. Law 18-326 provided: "Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code

§ 9-204.01), the Council designates the senior wellness center located at 3531 Georgia Avenue, N.W., in Ward 1, as the 'Bernice Elizabeth Fonteneau 'Miss B's' Senior Wellness Center'."

Designation of Thelma Jones Way: Section 2 of D.C. Law 18-332 provided: "Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), the Council symbolically designates the alley between U Place, S.E., and Good Hope Road, S.E., as 'Thelma Jones Way'."

Designation of The Park at LeDroit: Section 2 of D.C. Law 19-61 provided:

"Sec. 2. Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures of 1982, effective March 10, 1983 (D.C. Law 4-201; D. C. Official Code § 9-204.01), the Council designates the park bounded by V Street, N.W., 2nd Street, N.W., and Elm Street, N.W., in Ward 1, as 'The Park at LeDroit'."

Designation of the Rita B. Bright Family and Youth Center: Section 2 of D.C. Law 19-66 provided:

"Sec. 2. Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures of 1982, effective March 10, 1983 (D.C. Law 4-201; D. C. Official Code § 9-204.01), the Department of Parks and Recreation building located at 2500 14th Street, N.W., is designated as the 'Rita B. Bright Family and Youth Center'."

Designation of Martin Luther King Drive: Section 2 of D.C. Law 19-68 provided:

"Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding the second sentence in section 403a and section 407 of the Act (D.C. Official Code § 9-204.07), the Council symbolically designates the public street starting on the corner of Martin Luther King, Jr. Avenue, S.E., and Good Hope Road, S.E., moving across the 11th Street Bridge, across the Southeast Freeway, across the Southwest Freeway, onto Maine Avenue, S.W., and ending on the corner of Maine Avenue, S.W., and Raoul Wallenberg Place, S.W., as 'Martin Luther King, Jr. Drive'."

Designation of William O. Lockridge Way: Section 2 of D.C. Law 19-85 provided:

Pursuant to section 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), the Council of the District of Columbia symbolically designates

the public street Valley Avenue, S.E., between 4th Street, S.E., and 9th Street, S.E., as 'William O. Lockridge Way'."

Designation of Southwest Duck Pond: Section 2 of D.C. Law 19-105 provided:

Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01), the Council designates the park located at 6th Street, S.W., and I Street, S.W., in Ward 6, as the 'Southwest Duck Pond'."

Designation of Paul Washington Way: Section 2 of D.C. Law 19-107 provided:

"Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 204.03a) ('Act'), and notwithstanding section 407 of the Act (D.C. Official Code § 9-204.07), the Council symbolically designates the 4600 block of 12th Street, N.E., in Ward 5, as 'Paul Washington Way'."

Designation of Glover Park Community Center: Section 2 of D.C. Law 19-108 provided:

"Sec. 2. Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01) ('Act'), and notwithstanding section 405 of the Act (D.C. Official Code § 9-204.05), the Council designates the Stoddert Recreation Center, located at 39th Street, N.W., and Calvert Street, N.W., in Ward 3, as the 'Glover Park Community Center'."

Designation of Rev. Dr. Jerry A. Moore, Jr. Commemorative Plaza: Section 2 of D.C. Law 19-109 provided:

"Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), the Council symbolically designates the public space encompassing the 4600 block of 16th Street, N.W., the 1600 block of Buchanan Street, N.W., the 1600 block of Crittenden Street, N.W., and the 4600 block of 17th Street, N.W., in Ward 4, as the 'Rev. Dr. Jerry A. Moore, Jr. Commemorative Plaza'."

Designation of 9/11 Memorial Grove: Section 2 of D.C. Law 19-114 provided:

"Sec. 2. Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01), the Council designates the park in Reservations 328 and 329, located at the intersection of Massachusetts Avenue, N.W., and Fulton Street, N.W., in Ward 3, as the '9/11 Memorial Grove'."

Designation of Lillian A. Gordon Water Play Area and Margaret B. Cooper and Lillian A. Gordon Park: Section 2 of D.C. Law 19-117 provided:

"Sec. 2. Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01) ('Act'), and notwithstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), the Council designates:

"(1) The water play area at the Kennedy Recreation Center, located as 1401 7th Street, N.W., in Ward 2, the 'Lillian A. Gordon Water Play Area'; and

"(2) The park located at 6th Street, N.W., between R Street, N.W., and Rhode Island Avenue, N.W., in Ward 2, the 'Margaret B. Cooper and Lillian A. Gordon Park'."

Designation of Willie Wood Way: Section 2 of D.C. Law 19-118 provided:

"Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding sections 405 and 407 of the Act (D.C. Official Code §§ 9-204.05 and 9-204.07), the Council symbolically designates the unit block of N Street, N.W., between 1st Street, N.W., and New York Avenue, N.W., in Ward 5, as 'Willie Wood Way'."

Designation of William O'Neal Lockridge Memorial Library at Bellevue: Section 2 of D.C. Law 19-119 provided:

"Sec. 2. Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01) ('Act'), and notwithstanding section 405 of the Act (D.C. Official Code § 9-204.05), the Council designates the Washington Highlands Neighborhood Library, located at 115 Atlantic Street, S.W., in Ward 8, as the 'William O'Neal Lockridge Memorial Library at Bellevue'."

Designation of Adolf Cluss Court: Section 2 of D.C. Law 19-154 provided:

"Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding section 407 of the Act (D.C. Official Code § 9-204.07), the Council designates the alley between C Street, S.E., and D Street, S.E., and parallel to 12th Street, S.E., and 13th Street, S.E., as 'Adolf Cluss Court'."

Designation of Elizabeth P. Thomas Way: Section 2 of D.C. Law 19-159 provided:

"Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-



204.01 and 9-204.03a), the Council symbolically designates Quackenbos Street, N.W., between Georgia Avenue, N.W., and 13th Street, N.W., in Ward 4, as 'Elizabeth P. Thomas Way'."

Designation of "Where Lincoln's Legacy Lives"; Section 2 of D.C. Law 19-160 provided:

"Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding section 407 of the Act (D.C. Official Code § 9-204.07), the Council symbolically designates the public space of the 500 block of 10th Street, N.W., between E Street, N.W., and F Street, N.W., as 'Where Lincoln's Legacy Lives' and orders that a street sign be placed at the intersection of 10th Street, N.W., and E Street, N.W., and at the intersection of 10th Street, N.W., and F Street, N.W., that reads 'Where Lincoln's Legacy Lives'."

Designation of Hilda H.M. Mason Way: Section 2 of D.C. Law 19-163 provided:

"Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ('Act'), and notwithstanding section 407 of the Act (D.C. Official Code § 9-204.07), the Council symbolically designates the 1400 block of Roxanna Road, N.W., as 'Hilda H.M. Mason Way'."

Designation of "Phebbie Scott Way". Section

2 of D.C. Law 19-247 provided that pursuant to §§ 9-204.01 and 9-204.03a, and notwithstanding §§ 9-204.05 and 9-204.07, the Council symbolically designates the 3900 block of Burns Place, S.E., in Ward 7, as "Phebbie Scott Way".

Designation of "Senator Charles H. Percy Plaza". Section 2 of D.C. Law 19-249 provided that pursuant to §§ 9-204.01 and 9-204.03a, and notwithstanding §§ 9-204.05 and 9-204.07, the Council designates the intersection of Wisconsin Avenue, N.W., K Street, N.W., and Water Street, N.W., in Ward 2, as the "Senator Charles H. Percy Plaza".

Designation of Albert "Butch" Hopkins Way. Section 2 of D.C. Law 19-250 provided that pursuant to §§ 9-204.01 and 9-204.03a, and notwithstanding §§ 9-204.05 and 9-204.07) the Council symbolically designates the 1800 block of Martin Luther King Jr. Avenue, S.E., as "Albert 'Butch' Hopkins Way".

Designation of Chuck Brown Park: Section 2 of D.C. Law 19-259 provided that pursuant to § 9-204.01, and notwithstanding §§ 9-204.05 and 9-204.07, the Council designates the western side of Langdon Park, between 18th Street, N.E., and 20th Street, N.E., in Ward 5, as "Chuck Brown Park".

Designation of Greater Mount Calvary Way: Section 2 of D.C. Law 19-265 provided that pursuant to §§ 9-204.01 and 9-204.03a), the Council symbolically designates the 600 block of Rhode Island Avenue, N.E., as "Greater Mount Calvary Way".

## § 9-204.02. System of designations.

In naming any street or circle the following system shall be adhered to:

(1) The broad diagonal highways shall be designated as avenues, and shall be named after states and territories of the United States.

(2) Streets running north and south shall be designated with numbers consecutively in each direction from the meridian of the United States Capitol. Any street not in exact alignment with those streets to its north and south shall be given the same designation as the street which is most nearly in line with its alignment.

(3) Streets running east and west shall be designated with the letters of the alphabet until these letters are exhausted. Beyond this they shall have names of 1 syllable, then names of 2 and 3 syllables, all arranged in alphabetical order. Any street not in exact alignment with those streets to its east and west shall be given the same designation as the street most nearly in line with its alignment.

(4) Streets which do not form an essential part of the rectangular system of streets shall be designated as roads, drives, or places and shall be named after a prominent local feature in their vicinity, or by such other distinguishing designation as the Council may determine to be appropriate.

(5) Circles shall be named after distinguished persons who have been prominent in the service of this country.



(Mar. 10, 1983, D.C. Law 4-201, § 402, 30 DCR 148; Apr. 26, 1988, D.C. Law 7-102, § 4, 35 DCR 2053.)

**Prior Codifications.** — 1981 Ed., § 7-452.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Legislative history of Law 7-102.** — Law 7-102, the “Dedication and Designation of Patricia Roberts Harris Drive, N.E., S.O. 85-189, and Street Naming Amendment Act of 1988,”

was introduced in Council and assigned Bill No. 7-255, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 2, 1988 and February 16, 1988, respectively. Signed by the Mayor on March 2, 1988, it was assigned Act No. 7-147 and transmitted to both Houses of Congress for its review.

## § 9-204.03. Alleys.

The Council shall not name any alley in the District of Columbia except when the alley provides the only access to a residential or commercial property, and except when the Council designates a symbolic name for the alley pursuant to § 9-204.03a.

(Mar. 10, 1983, D.C. Law 4-201, § 403, 30 DCR 148; Apr. 9, 1997, D.C. Law 11-236, § 2(a), 44 DCR 917.)

**Prior Codifications.** — 1981 Ed., § 7-453. 1981 Ed., § 7-453.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Legislative history of Law 11-236.** — Law 11-236, the “Naming of Public Spaces Amendment Act of 1996,” was introduced in Council

and assigned Bill No. 11-565, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-496 and transmitted to both Houses of Congress for its review. D.C. Law 11-236 became effective on April 9, 1997.

## § 9-204.03a. Symbolic names.

The Council may designate a symbolic name for any public space, which shall be in addition to and subordinate to any name that is the mailing address for the public space, and which shall conform with the requirements of this chapter pertaining to the naming of public spaces. A symbolic designation shall not duplicate any name which includes the following words within its name: “Avenue”, “Street”, “Road”, “Drive”, “Place”, “Circle”, or “Alley”.

(Mar. 10, 1983, D.C. Law 4-201, § 403a, as added Apr. 9, 1997, D.C. Law 11-236, § 2(b), 44 DCR 917.)

**Section references.** — This section is referenced in § 9-204.03.

**Prior Codifications.** — 1981 Ed., § 7-453.1.

**Temporary Amendment of Section.** — For temporary (225 day) designation of street, see § 2 of Kivie Kaplan Way Designation Temporary Act of 2003 (D.C. Law 15-13, June 21, 2003, law notification 50 DCR 5457).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of Kivie Kaplan Way Designation Emergency Act of

2003 (D.C. Act 15-54, April 4, 2003, 50 DCR 2967).

**Legislative history of Law 11-236.** — For legislative history of D.C. Law 11-236, see Historical and Statutory Notes following § 9-204.03.

**Editor's notes.** — Section 3 of D.C. Law 13-106 provided: “Pursuant to section 403a the Street and Alley Closing and Acquisition Procedures Act of 1982, effective April 9, 1997 (D.C. Law 11-236; D.C. Code § 7-453.1) (‘Act’), and notwithstanding the requirement set forth in

section 405 of the Act (D.C. Code § 7-455), that no public space shall be named in honor of any person who has been deceased less than 2 years, the alley running east to west between the 100 block of 10th Street, N.E., and the 100 block of 11th Street, N.E., shall be designated as ‘Al Arrighi Way’, in honor of Mr. Al Arrighi’s contributions to the quality of life of the Capitol Hill neighborhood in the District of Columbia.”

Section 3 of D.C. Law 14-46 provided: “Sec. 3. Pursuant to section 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 11-236; D.C. Official Code 9-204.03a), the Council of the

District of Columbia symbolically designates the northwest corner of Barry Place, N.W., at Georgia Avenue N.W., as ‘Ed Murphy Way, N.W.’ by placing a street sign on the northwest corner of Barry Place, N.W., at Georgia Avenue, N.W., which reads ‘Ed Murphy Way, N.W.’.”

Section 2 of D.C. Law 15-70 provided: “Sec. 2. Pursuant to section 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective April 9, 1997 (D.C. Law 11-236; D.C. Official Code § 9-204.03a), the Council symbolically designates 21st Street, N.W., between Massachusetts Avenue and Q Street, N.W., as ‘Kivie Kaplan Way.’”

## § 9-204.04. Duplicative names prohibited.

No public space in the District of Columbia shall be given the same name as that given another public space in the District.

(Mar. 10, 1983, D.C. Law 4-201, § 404, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-454.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Editor’s notes.** — Section 2 of D.C. Law 13-288 provided: “Pursuant to section 401 of the Street and Alley Closing and Acquisition

Procedures Act of 1982 (‘the Act’), and notwithstanding section 404 of the Act, which requires no public space in the District of Columbia be given the same name as that given another public space in the District, the Council of the District of Columbia redesignated the Langley-McKinley Recreation Center as the ‘Harry L. Thomas, Sr., Recreation Center’.”

## § 9-204.05. Use of living persons’ names prohibited; use of deceased persons’ names restricted.

No public space in the District shall be named in honor of any living person, or in honor of any person who has been deceased less than 2 years, unless the deceased person was a President or Vice President of the United States, a United States Senator or Representative, a Mayor of the District of Columbia, or a member of the Council of the District of Columbia.

(Mar. 10, 1983, D.C. Law 4-201, § 405, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-455.

**Temporary Amendment of Section.** — For temporary (225 day) acceptance of dedication, see § 2 of Dedication and Designation of Harry Thomas Way Temporary Act of 1998 (D.C. Law 12-251, April 20, 1999, law notification 46 DCR 4164).

**Emergency legislation.** — For temporary designation of minor street as “Harry Thomas Way”, see § 2(b) of the Dedication and Designation of Harry Thomas Way Emergency Act of 1998 (D.C. Act 12-579, January 12, 1999, 45 DCR 966).

For designation of certain dedicated land, see

§ 2(b) of the Dedication and Designation of Harry Thomas Way, N.E. Emergency Act of 1999 (D.C. Act 13-198, December 1, 1999, 46 DCR 10444).

For designation of certain dedicated land, see § 2(b) of the Dedication and Designation of Harry Thomas Way, N.E. Congressional Review Emergency Act of 2000 (D.C. Act 13-277, March 7, 2000, 47 DCR 2017).

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**§ 9-204.06. Extent of name to be used; use on street signs.**

The Council shall use the person's given name as well as the person's surname in naming a public space in the District of Columbia in honor of a person. If the full name exceeds 21 characters a meaningful part of the name may be used on the street signs.

(Mar. 10, 1983, D.C. Law 4-201, § 406, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-456.

**Legislative history of Law 4-201.** — For torical and Statutory Notes following § 9-201.01.

legislative history of D.C. Law 4-201, see His-

**§ 9-204.07. Submission of bill to involved advisory neighborhood commission.**

(a) The initiator of a proposal to name or rename a public space shall:

(1) Submit a petition to the Council in support of the proposal which is signed by a majority of owners of property abutting the public space to be named or renamed, prior to Council adoption of a bill to designate the naming or renaming; and

(2) Pay fees to the District government, which shall be established by the Mayor by rulemaking, for all costs associated with the consideration of the proposal by the Council and the Mayor, if the proposal is enacted, all costs associated with the implementation of the proposal by the District government, including, but not limited to, the costs of installing and maintaining signs which designate the name of the public space.

(b) Prior to consideration by a committee of the Council of a bill to name or rename a public space, the Mayor shall provide the Council with the following:

(1) A surveyor's plat showing the public space to be named or renamed, the square in or adjacent to which the public space is located, and the abutting square of the affected area;

(2) A report on the number of mailing addresses affected by the proposal, the number of signs required to implement the proposal, and the fiscal impact of considering and implementing the proposal; and

(3) A report to the Council that all abutting property owners have been notified of the proposed symbolic name designation.

(c) Not less than 30 days prior to Council consideration of a bill to name or rename a public space in the District of Columbia, the Council shall submit a copy of the bill for review and comment to each Advisory Neighborhood Commission in which the public space is located.

(Mar. 10, 1983, D.C. Law 4-201, § 407, 30 DCR 148; Apr. 9, 1997, D.C. Law 11-236, § 2(c), 44 DCR 917.)

**Prior Codifications.** — 1981 Ed., § 7-457.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**Legislative history of Law 11-236.** — For legislative history of D.C. Law 11-236, see Historical and Statutory Notes following § 9-204.03.



**§ 9-204.08. Proposal to name or rename to be submitted to affected property owners.**

The person or persons who initiate a proposal to name or rename a street or alley in the District of Columbia shall submit in writing a copy of the proposal to each owner of property abutting the affected street or alley.

(Mar. 10, 1983, D.C. Law 4-201, § 408, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-458. torical and Statutory Notes following § 9-201.01.  
**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

**§ 9-204.09. Rights of certain boards preserved.**

Nothing in this chapter shall prohibit the Board of Education, the Board of Library Trustees, or the Board of Trustees of the University of the District of Columbia from naming or renaming the public buildings or spaces under their respective jurisdictions.

(Mar. 10, 1983, D.C. Law 4-201, § 409, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-459. torical and Statutory Notes following § 9-201.01.  
**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

PART B.

COMMEMORATIVE WORKS.

**§ 9-204.11. Definitions.**

For the purposes of this subchapter, the term:

(1)(A) “Commemorative work” means any statue, monument, sculpture, streetscape or landscape feature, including a garden or memorial grove, or other structure, which is located on public space and which is designed to perpetuate in a permanent manner the memory of an individual, group, event, or other significant element of international, national, or local culture or history.

(B) “Commemorative work” does not mean any statue, monument, sculpture, streetscape or landscape feature, including a garden or memorial grove, or other structure, which is (i) located within the interior of a structure that is not itself a commemorative work; (ii) a structure that is used primarily for other purposes; or (iii) intended to be displayed for only a limited period of time that does not exceed one year.

(C) “Commemorative work” does not mean the naming of an existing public space, a plaque, or a wayside or wayfinding sign or commemorative feature incorporated within ordinary walkway paving.

(2)(A) “Public space” means any public street, alley, circle, bridge, building, park, other public place or property owned by or under the administrative control or jurisdiction of the District of Columbia.

(B) “Public space” does not include property that is both owned by the Federal government and under the administrative control or jurisdiction of the National Park Service, the General Services Administration, the Department of Defense, or other federal agency.

(3) “Sponsor” means a Federal or District agency, or an individual, group, or organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under section 501(a) of the Internal Revenue Code, and which is authorized by the Mayor and Council to establish a commemorative work on public space in the District of Columbia.

(Mar. 10, 1983, D.C. Law 4-201, § 411, as added Apr. 4, 2001, D.C. Law 13-275, § 2(d), 48 DCR 1660.)

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of the Commemorative Works on Public Space Emergency Amendment Act of 2000 (D.C. Act 13-564, January 31, 2001, 48 DCR 1627).

**Legislative history of Law 13-275.** — For Law 13-275, see notes following § 9-204.01.

## § 9-204.12. Commemorative Works Committee.

(a) There is established a District of Columbia Commemorative Works Committee (“Committee”) to advise and recommend to the Mayor and the Council a disposition of each application to place a commemorative work on public space in the District of Columbia.

(b) The Committee shall be composed of 12 voting members, 3 of whom shall be citizen members and 9 of whom shall be ex officio members. The 3 citizen members shall each be appointed by the Mayor with the advice and consent of the Council for a 3-year term. The following government officials, or their designated representatives, shall serve as the ex officio members:

(1) The Director of the Office of Planning, who shall serve as chairperson of the Committee;

(2) The Director of the Department of Parks and Recreation;

(3) The Director of the Department of Public Works;

(4) The Chief Property Management Officer;

(5) The Executive Director of the Commission on the Arts and Humanities;

(6) The Chairperson of the Historic Preservation Review Board;

(7) The Secretary of the District of Columbia;

(8) The Director of the Department of Consumer and Regulatory Affairs; and

(9) The Director of the Department of Housing and Community Development.

(c) Each citizen member appointed to the Committee shall be a person who has displayed an active interest or ability in the visual arts, architecture, urban planning, civic design, or history.

(d) The Mayor shall establish rules and procedures for the administration of the Committee.

(Mar. 10, 1983, D.C. Law 4-201, § 412, as added Apr. 4, 2001, D.C. Law 13-275,

§ 2(d), 48 DCR 1660; Oct. 26, 2001, D.C. Law 14-42, § 25, 48 DCR 7612; Apr. 13, 2005, D.C. Law 15-354, § 22, 52 DCR 2638.)

**Effect of amendments.** — D.C. Law 14-42, in subsec. (b), substituted “12 voting members” for “11 voting members” and “9 of whom” for “8 of whom” in the introductory paragraph, deleted the word “and” at the end of par. (7), added “; and” at the end of par. (8); and added par. (9) relating to the Director of the Department of Housing and Community Development.

D.C. Law 15-354, in subsec. (b)(4), substituted “Chief Property Management Officer” for “Director of the Office of Property Management”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of the Commemorative Works on Public Space Emergency Amendment Act of 2000 (D.C. Act 13-564, January 31, 2001, 48 DCR 1627).

For temporary (90 day) amendment of sec-

tion, see § 25 of Technical Amendments Emergency Act of 2001 (D.C. Act 14-108, August 3, 2001, 48 DCR 7622).

**Legislative history of Law 13-275.** — For Law 13-275, see notes following § 9-204.01.

**Legislative history of Law 14-42.** — Law 14-42, the “Technical Correction Amendment Act of 2001”, was introduced in Council and assigned Bill No. 14-216, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 5, 2001, and June 26, 2001, respectively. Signed by the Mayor on July 24, 2001, it was assigned Act No. 14-107 and transmitted to both Houses of Congress for its review. D.C. Law 14-42 became effective on October 26, 2001.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 9-111.01a.

## § 9-204.13. Authority of the Committee.

(a) The Committee shall act in an advisory capacity to the Mayor and the Council to:

(1) Develop criteria to be used to review, evaluate, approve, or deny applications for placement of commemorative works on public space in the District;

(2) Review each application for placement of a commemorative work on public space in the District, by considering: the appropriateness of the location, subject matter, and design of the commemorative work, including the aesthetic, environmental, traffic and parking, and financial impacts of the proposal upon the surrounding community and the District; and the sufficiency of the sponsor to fund the construction and maintenance of the commemorative work;

(3) Refer each application for a commemorative work on public space in the District for review and comments by affected advisory neighborhood commissions, by affected District agencies and public utilities, and by the National Capital Memorial Commission; and

(4) Recommend to the Mayor and the Council a disposition of each application for placement of a commemorative work on public space in the District.

(b) The recommendations of the Committee shall not be inconsistent with:

(1) The Comprehensive Plan for the National Capital (10 DCMR);

(2) The District of Columbia Home Rule Act;

(3) The Zoning Regulations of the District of Columbia (11 DCMR); and

(4) The Public Space and Safety Regulations of the District of Columbia (24 DCMR).

(Mar. 10, 1983, D.C. Law 4-201, § 413, as added Apr. 4, 2001, D.C. Law 13-275, § 2(d), 48 DCR 1660.)



**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of the Commemorative Works on Public Space Emergency Amendment Act of 2000 (D.C. Act 13-564, January 31, 2001, 48 DCR 1627).

**Legislative history of Law 13-275.** — For Law 13-275, see notes following § 9-204.01.

## § 9-204.14. Applications for commemorative works.

Any sponsor may propose the placement of a commemorative work on public space in the District. Any proposal for a commemorative work on public space in the District shall be accompanied by a completed application to the Committee by a sponsor. The Mayor shall develop a procedure for receiving applications for commemorative works. The Mayor shall publish in the *D.C. Register* the application procedure, including all information required for the application to be complete.

(Mar. 10, 1983, D.C. Law 4-201, § 414, as added Apr. 4, 2001, D.C. Law 13-275, § 2(d), 48 DCR 1660.)

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of the Commemorative Works on Public Space Emergency Amendment Act of 2000 (D.C. Act 13-564, January 31, 2001, 48 DCR 1627).

**Legislative history of Law 13-275.** — For Law 13-275, see notes following § 9-204.01.

## § 9-204.15. Guidelines for consideration of applications.

(a) Commemorative works on public space that are proposed for commemoration of local individuals, groups, events, or other significant elements of District of Columbia culture or history generally should be given priority over other commemorative works.

(b) Subjects to be memorialized by commemorative works on public space in the District should be of long-term historic importance and shall generally not be any living person, any deceased person who has been deceased less than 10 years, nor any event that has occurred within 10 years of the application for placement of the commemorative work on public space.

(c) In considering a proposed commemorative work on public space, the Mayor, the Council, and the Committee shall be guided by the following criteria, in addition to any other criteria set forth in this subchapter, and any other criteria not inconsistent with this subchapter developed by the Mayor and published in the *D.C. Register*:

(1) To the maximum extent possible, a commemorative work shall be located in surroundings that are relevant to and compatible with the subject of the commemorative work.

(2) A commemorative work shall be situated in a manner that prevents interference with or encroachment upon any existing commemorative work, and that protects and enhances, to the maximum extent practicable, open space, existing public and private uses, and cultural and natural resources.

(3) A commemorative work shall be constructed of durable material suitable to the outdoor environment, and any landscape features of a commemorative work shall be compatible with the climate.

(Mar. 10, 1983, D.C. Law 4-201, § 415, as added Apr. 4, 2001, D.C. Law 13-275, § 2(d), 48 DCR 1660.)

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of the Commemorative Works on Public Space Emergency Amendment Act of 2000 (D.C. Act 13-564, January 31, 2001, 48 DCR 1627).

**Legislative history of Law 13-275.** — For Law 13-275, see notes following § 9-204.01.

**Delegation of Authority.** — Delegation of Authority to Promulgate Rules Pursuant to the Commemorative Works on Public Space Amendment Act of 2000, see Mayor's Order 2005-59, April 1, 2005 (52 DCR 5798).

## § 9-204.16. Easements for commemorative works.

Following approval of a commemorative work by the Mayor and the Council pursuant to § 9-204.01, the Mayor shall provide an easement to the sponsor of the commemorative work for the use of District public space for the purpose of constructing and maintaining the approved commemorative work. The term of the easement shall be for a maximum of 25 years and may be automatically renewable for successive 25 year terms in perpetuity unless cancelled in writing by the Mayor for good cause. The Mayor shall establish the rules for termination of an easement granted for a commemorative work. The Mayor shall require each sponsor of an approved commemorative work to provide for all of the financing necessary to develop, construct, and maintain the commemorative work. A sponsor of an approved commemorative work shall be financially responsible for the perpetual maintenance of the commemorative work.

(Mar. 10, 1983, D.C. Law 4-201, § 416, as added Apr. 4, 2001, D.C. Law 13-275, § 2(d), 48 DCR 1660.)

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of the Commemorative Works on Public Space Emergency Amendment Act of 2000 (D.C. Act 13-564, January 31, 2001, 48 DCR 1627).

**Legislative history of Law 13-275.** — For Law 13-275, see notes following § 9-204.01.

## § 9-204.17. Issuance of permits.

Prior to issuing a permit for the construction of a commemorative work on public space in the District, the Mayor shall determine that:

(1) The sponsor, site, subject matter, and design of the proposed commemorative work have been approved by the Mayor and Council pursuant to § 9-204.01;

(2) The proposed commemorative work complies with requirements set forth in subchapter I of Chapter 11 of Title 6 and subchapter V of Chapter 1 of Subtitle A of Title 8;

(3) Knowledgeable persons qualified in the field of preservation and maintenance have been consulted to determine structural soundness and durability of the proposed commemorative work;

(4) The sponsor authorized to construct the commemorative work has submitted contract documents for the construction of the commemorative work to the Mayor; and

(5) The sponsor authorized to construct and maintain the commemorative work has sufficient funds to complete construction of the project and to provide for the ongoing maintenance of the commemorative work.

(Mar. 10, 1983, D.C. Law 4-201, § 417, as added Apr. 4, 2001, D.C. Law 13-275, § 2(d), 48 DCR 1660.)

**Section references.** — This section is referenced in § 9-204.18.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of the Commemorative Works on Public Space Emer-

gency Amendment Act of 2000 (D.C. Act 13-564, January 31, 2001, 48 DCR 1627).

**Legislative history of Law 13-275.** — For Law 13-275, see notes following § 9-204.01.

## § 9-204.18. Deposit for maintenance of commemorative work.

(a) In addition to the criteria set forth in § 9-204.17, no construction permit shall be issued unless the sponsor authorized to construct the commemorative work has donated either an amount that is equal to 10% of the total estimated cost of the construction or another amount determined by the Mayor to offset the costs of perpetual maintenance and preservation of the commemorative work.

(b) All proceeds received pursuant to subsection (a) of this section shall be deposited in a nonlapsing account of the District government and shall be available for the nonrecurring repair and maintenance of the sponsor's commemorative work pursuant to the provisions of this section.

(c) The sponsor shall be required to submit to the Mayor an annual report of operations prior to and during construction of the commemorative work, including financial statements audited by an independent certified public accountant, paid for by the sponsor authorized to construct the commemorative work.

(d) The provisions of this section shall not apply to a commemorative work that is constructed by a Federal or District agency and where less than 50% of the funding for the construction is provided by private sources.

(Mar. 10, 1983, D.C. Law 4-201, § 418, as added Apr. 4, 2001, D.C. Law 13-275, § 2(d), 48 DCR 1660.)

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of the Commemorative Works on Public Space Emergency Amendment Act of 2000 (D.C. Act 13-564, January 31, 2001, 48 DCR 1627).

**Legislative history of Law 13-275.** — For Law 13-275, see notes following § 9-204.01.

## § 9-204.19. Expiration of approval of commemorative work.

Approval of a commemorative work pursuant to § 9-204.01, and any easement granted pursuant to the approval, shall expire at the end of a 7-year period beginning on the effective date of the approval unless:



(1) The Mayor issues a construction permit for the commemorative work during that period; or

(2) Prior to the end of the 7-year period, the Mayor:

(A) Determines that all regulatory approvals other than the construction permit for the commemorative work have been obtained and not less than 75% of the amount estimated to be required to construct the commemorative work has been raised; and

(B) Submits a proposed resolution that is approved by the Council to extend the 7-year authority for the commemorative work for a period not to exceed 3 years, at the end of which period the approval shall expire if a construction permit has not been issued for the commemorative work.

(Mar. 10, 1983, D.C. Law 4-201, § 419, as added Apr. 4, 2001, D.C. Law 13-275, § 2(d), 48 DCR 1660.)

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of the Commemorative Works on Public Space Emergency Amendment Act of 2000 (D.C. Act 13-564, January 31, 2001, 48 DCR 1627).

**Legislative history of Law 13-275.** — For Law 13-275, see notes following § 9-204.01.

### *Subchapter V. [Reserved].*

## § 9-205.01. [Reserved].

### *Subchapter VI. Miscellaneous Provisions.*

## § 9-206.01. Validity of condemnations or closings pursuant to repealed law not affected.

The validity of any condemnation proceeding or any street or alley closing pursuant to any section of law repealed by this act shall not be affected by its repeal.

(Mar. 10, 1983, D.C. Law 4-201, § 601, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-471.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-201.01.

**References in text.** — “This act,” referred to in this section, is D.C. Law 4-201.

## § 9-206.02. Authority to issue rules.

The Mayor may issue rules necessary to implement and enforce this chapter.

(Mar. 10, 1983, D.C. Law 4-201, § 602, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-472.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

torical and Statutory Notes following § 9-201.01.

Unit B. Repealed Provisions.

**§§ 9-221.01 to 9-221.10. Closings authorized; disposition of property; proposed closing of public way — notice, hearing; plans; order; recordation; in rem proceeding — instituted upon objection to order; damages; assessment of benefits; abandonment; petition by property owners for closing; prior laws to remain in force; short title. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 726, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., §§ 7-401 to 7-410. legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-

**Legislative history of Law 4-201.** — For 201.01.

## CHAPTER 3. BRIDGES, VIADUCTS, AND SUBWAYS.

Sec.

- 9-301. Control of bridges; exception.
- 9-302. Construction and repair of bridges over railway and canal rights-of-way.
- 9-303. Bridges across Rock Creek.
- 9-304. Pennsylvania Avenue Bridge.
- 9-305. Anacostia Bridge.
- 9-306. John Philip Sousa Bridge.
- 9-307. Highway Bridge.
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- 9-309. Construction of power boats; exception; "power boats" defined.
- 9-310. Monroe Street Bridge.
- 9-311. Francis Scott Key Bridge.
- 9-312. South Dakota Avenue Bridge.
- 9-313. Connecticut Avenue Bridge over Klinge Valley.
- 9-314. Benning Bridge.
- 9-315. Fern and Varnum Streets and Eastern Avenue Viaducts.

Sec.

- 9-316. Certain grade crossings to be closed after completion of Fern Street Viaduct.
- 9-317. Van Buren Street Subway.
- 9-318. Grade crossing at Lamond closed.
- 9-319. Cedar Street Subway.
- 9-320. Michigan Avenue Viaduct — Construction; cost; highway grade closed.
- 9-321. Michigan Avenue Viaduct — Use by street railway companies.
- 9-322. Highway grade crossing at Michigan Avenue closed.
- 9-323. Subway under Baltimore and Ohio tracks in vicinity of Chestnut Street, Fern Place, and Piney Branch Road.
- 9-324. Calvert Street Bridge.
- 9-325. Francis Case Memorial Bridge.
- 9-326. Washington Channel Bridge.

## § 9-301. Control of bridges; exception.

The control of bridges, except the Aqueduct Bridge across Rock Creek, in the District of Columbia, is hereby conferred on the Mayor of the District of Columbia, and the Council of the District of Columbia is hereby required to make such proper regulations as it may deem necessary for the safety of the public using said bridges, and for the lighting and the police control of the same.

(Mar. 3, 1893, 27 Stat. 544, ch. 199.)

**Cross references.** — Highway plans, jurisdiction of mayor over roads and bridges, see § 9-101.02.

Regulations necessary for the protection of lives, limbs, health, comfort, and quiet, see § 1-303.03.

Street lighting, costs charged to railroads, see § 9-509.

Street lighting, generally, see § 9-501 et seq.

**Prior Codifications.** — 1981 Ed., § 7-501. 1973 Ed., § 7-501.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(169)

of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-302. Construction and repair of bridges over railway and canal rights-of-way.

Appropriations made after June 7, 1924, for the construction and repair of bridges shall be available for repairing, when necessary, any bridge carrying a



public street over the right-of-way or property of any railway company, or for constructing, reconstructing, or repairing in such manner as shall in the judgment of the Mayor of the District of Columbia be necessary reasonably to accommodate public traffic, any bridge required to carry or carrying such traffic in a public street over the right-of-way or property of any canal company operating as such in the District of Columbia, on the neglect or refusal of such railway or canal company to do such work when notified and required by the Mayor, and the amounts thus expended shall be a valid and subsisting lien against the property of such railway company or of such canal company, and shall be collected from such railway company or from such canal company in the manner provided in § 9-401.01, and shall be deposited in the Treasury to the credit of the General Fund of the District of Columbia in the manner provided by law.

(June 7, 1924, 43 Stat. 550, ch. 302; June 28, 1944, 58 Stat. 533, ch. 300, § 18.)

**Cross references.** — Railroad companies, construction and maintenance of track and track-related facilities, see §§ 9-1201.10 to 9-1201.12, 9-1201.15, and 9-1203.06 et seq.

Railroad crossings, see § 9-1201.14.

**Prior Codifications.** — 1981 Ed., § 7-502. 1973 Ed., § 7-502.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-303. Bridges across Rock Creek.

The entire cost of paving, repairs, or replacements incident to track repairs, replacements, or changes made at a time when the bridge is not being paved, and one-half the cost of other paving, repaving, or maintenance of paving between its track and for 2 feet outside the outer rails, and the excess cost of construction and maintenance of any bridge across Rock Creek due to the existence or installation by a street railway or railways of its or their tracks on such bridge shall be borne by the said railway company or companies, and shall be collected in the same manner as the cost of laying pavements between the rails and tracks of street railways as provided for in § 9-401.01. The amounts thus collected shall be deposited to the credit of the appropriation for the fiscal year in which they are collected.

(Aug. 7, 1894, 28 Stat. 252, ch. 232; Jan. 14, 1933, 47 Stat. 759, ch. 10, § 3.)

**Section references.** — This section is referenced in § 9-304.

**Prior Codifications.** — 1981 Ed., § 7-503. 1973 Ed., § 7-503.

§ 9-304. **Pennsylvania Avenue Bridge.**

The East Washington Heights Traction Railroad Company shall bear the cost of maintenance, construction, and repair of the Pennsylvania Avenue Bridge over the Anacostia River in like manner and under the same conditions as are provided by § 9-303.

(July 1, 1902, 32 Stat. 636, ch. 1360; Jan. 14, 1933, 47 Stat. 759, ch. 10, § 3.)

**Prior Codifications.** — 1981 Ed., § 7-504. 1973 Ed., § 7-504.

§ 9-305. **Anacostia Bridge.**

The Anacostia and Potomac River Railroad Company shall pay the entire cost of the pavement between the exterior rails of its tracks on said bridge (the Anacostia Bridge) and for a distance of 2 feet from the said exterior rails of said tracks on each side thereof and the cost of the entire floor system supporting said pavement, to be collected in the same manner as the cost of laying pavements between the rails and tracks of street railways as provided for in § 9-401.01 and paid for each fiscal year into the Treasury of the United States to the credit of the General Fund of the District of Columbia; provided further, that any other railroad company on or after April 27, 1904, authorized by Congress to use said bridge shall have the right to use the tracks of the Anacostia and Potomac River Railroad Company thereon upon such reciprocal trackage and such compensation as may be mutually agreed upon, and in case of failure to reach such an agreement that the Superior Court of the District of Columbia shall, upon petition filed by either party, fix and determine the same. And after April 27, 1904, one-half of the cost of the maintenance and repairs of this bridge shall be borne by the said railway company or companies, and shall be collected in the same manner as the cost of laying pavements between the rails and tracks of street railways, and paid into the treasury, as provided for above. The entire cost of maintenance of such underfloor construction as may be necessary in order that the cars of said company may be propelled over said bridge by underfloor electrical conductors or cables shall, after March 3, 1905, be borne by said railroad company, and no cars shall be propelled across said bridge unless all electrical conductors or cables furnishing power for the propulsion of the same shall be placed under floor of said bridge.

(Apr. 27, 1904, 33 Stat. 372, ch. 1628; Mar. 3, 1905, 33 Stat. 893, ch. 1406; Feb. 22, 1921, 41 Stat. 1144, ch. 70, § 7; June 28, 1944, 58 Stat. 533, ch. 300, § 18; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(23).)

**Cross references.** — Public utilities, multiple company use of utility infrastructures, see § 34-1102.

**Prior Codifications.** — 1981 Ed., § 7-505. 1973 Ed., § 7-505.

CASE NOTES

**Validity.**

Statutes relative to Anacostia bridge in District of Columbia, as construed to require street

railway company to pay one-half cost of maintenance and repairs of bridge and also cost of construction and maintenance of underfloor

method of propulsion of street cars across bridge, held valid (Act April 27, 1904, 33 Stat. 372; Act March 3, 1905, 33 Stat. 893). *Hazen v.*

*Washington Ry. & Elec. Co.*, 74 F.2d 461, 1934 U.S. App. LEXIS 3991 (1934).

### § 9-306. John Philip Sousa Bridge.

The bridge authorized to be erected over the Anacostia River, in the District of Columbia, in the line of Pennsylvania Avenue shall be, on and after March 7, 1939, known as the John Philip Sousa Bridge.

(Mar. 7, 1939, 53 Stat. 512, ch. 8.)

**Prior Codifications.** — 1981 Ed., § 7-506. 1973 Ed., § 7-506.

### § 9-307. Highway Bridge.

The jurisdiction and control of the Highway Bridge across the Potomac River, including appropriations and employees, shall be under the Mayor of the District of Columbia. The Highway Bridge shall be for highway traffic. The entire cost of paving, repairs, or replacements incident to track repairs, replacements, or changes made at a time when the bridge is not being paved, and one-half the cost of other paving, repaving, or maintenance of paving between its track and for 2 feet outside the outer rails, and the excess cost of construction and maintenance of the bridge due to the existence or installation of its tracks thereon shall be paid by the street railway company or companies using the same under such regulations as the Mayor of the District of Columbia shall prescribe; provided, that all street railroads chartered or that may hereafter be chartered by Congress shall have the right to cross said bridge upon terms mutually agreed upon with the Washington, Alexandria, and Mount Vernon Railway Company or in case of disagreement, upon terms determined by the United States District Court for the District of Columbia which is authorized and directed to give hearing to the interested parties and to fix the terms of joint trackage.

(Feb. 12, 1901, 31 Stat. 773, ch. 353, § 12; July 1, 1902, 32 Stat. 598, ch. 1352; Feb. 22, 1921, 41 Stat. 1117, ch. 70, § 1; Jan. 14, 1933, 47 Stat. 759, ch. 10, § 3; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127.)

**Cross references.** — Public utilities, multiple company use of utility infrastructures, see § 34-1102.

**Prior Codifications.** — 1981 Ed., § 7-507. 1973 Ed., § 7-507.

**Editor's notes.** — Replacement of Highway Bridge: See Act of October 4, 1966, 80 Stat. 875, Pub. L. 89-627.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmen-

tal Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to



§ 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-308. Rochambeau Bridge.

The bridge built in lieu of the Long Bridge shall be for railroad purposes only and for 2 or more railway tracks. The Baltimore and Potomac Railroad Company shall maintain, and keep in repair said bridge at its own cost and expense, and shall maintain an efficient draw in said bridge, operating the same so as not to unnecessarily impede the free navigation of the Potomac River at any hour of the day or night, and shall give other railroad companies the right to pass over said bridge upon such reasonable terms as may be agreed upon between the companies or prescribed by Congress.

(Feb. 12, 1901, 31 Stat. 772, ch. 353, § 11.)

**Cross references.** — Public utilities, multiple company use of utility infrastructures, see § 34-1102.

**Prior Codifications.** — 1981 Ed., § 7-508. 1973 Ed., § 7-508.

### § 9-309. Construction of power boats; exception; “power boats” defined.

(a) All tugboats using the Potomac River at the place or places where the same is spanned by the 2 certain bridges in said act provided for, namely the Railway Bridge and the Highway Bridge, are required to equip and fit, not later than July 1, 1909, all smokestacks thereof or other vertical projections with hinges or other mechanical device so as to permit the same to be lowered to the level of the top of the pilothouse of such boats; provided, that all such tugboats the pilothouse of which will not pass under such bridges may be exempted from the operations of the provisions hereof, upon application made to the Secretary of the Army and his approval thereof; provided further, that all tugboats after March 4, 1909, built or purchased, or not on said date actually engaged in business on the Potomac River at the places aforesaid, must have their dimensions approved by the Secretary of the Army before being permitted to use and operate the same on the Potomac River at the places above mentioned: And provided further, that the provisions hereof shall not apply to such tugboats as may, by reason of their structure, be able to pass under said 2 bridges, respectively, without the necessity of operating the draws thereof.

(b) The provisions of this section are applicable to “power boats,” meaning any boat, vessel, or craft propelled by machinery, whether the machinery be only principal or auxiliary power of propulsion.

(Mar. 4, 1909, 35 Stat. 1066, ch. 315; Mar. 4, 1915, 38 Stat. 1053, ch. 142, § 6.)

**Prior Codifications.** — 1981 Ed., § 7-509. 1973 Ed., § 7-509.

### § 9-310. Monroe Street Bridge.

No street railway company shall use the viaduct or bridge or any approaches

thereto authorized by the Act of July 3, 1930, to carry Monroe Street Northeast over the tracks of the Baltimore and Ohio Railroad Company, for its tracks until such company shall have paid to the Collector of Taxes of the District of Columbia a sum equal to one-fourth of the cost of such viaduct or bridge and approaches, which sum shall be paid to the Collector of Taxes for the District of Columbia for deposit to the credit of the District of Columbia.

(Mar. 2, 1907, 34 Stat. 1130, ch. 2510; July 3, 1930, 46 Stat. 963, ch. 848.)

**Prior Codifications.** — 1981 Ed., § 7-510.  
1973 Ed., § 7-510.

**Editor's notes.** — Office of Collector of Taxes abolished: The Office of the Collector of Taxes was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. All functions of the Office of the Collector of Taxes including the functions of all officers, employees and subordinate agencies were transferred to the Director, Department of General Administration by Reorganization Order No. 3, dated August 28, 1952. Reorganization Order No. 20, dated November 10, 1952, transferred the functions of the Collector of Taxes to the Finance Office. The same Order provided for the Office of the Collector of Taxes headed by a Collector in the Finance Office, and abolished the previously existing Office of the Collector of Taxes. Reorganization Order No. 20 was superseded and replaced by Organization Order No. 121, dated December 12, 1957, which provided that the Finance Office (consisting of the Office of the Finance Officer, Property Tax Division, Revenue Divi-

sion, Treasury Division, Accounting Division, and Data Processing Division) would continue under the direction and control of the Director of General Administration, and that the Treasury Division would perform the function of collecting revenues of the District of Columbia and depositing the same with the Treasurer of the United States. Organization Order No. 121 was revoked by Organization Order No. 3, dated December 13, 1967, Part IVC of which prescribed the functions of the Finance Office within a newly established Department of General Administration. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions of the Finance Office as stated in Part IVC of Organization Order No. 3 were transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969. The collection functions of the Director of the Department of Finance and Revenue were transferred to the District of Columbia Treasurer by § 47-316 on March 5, 1981.

## § 9-311. Francis Scott Key Bridge.

The jurisdiction or control of the Georgetown Bridge, to be known as the Francis Scott Key Bridge, across the Potomac River and approaches shall be under the Mayor of the District of Columbia. The said bridge shall be used as a highway for traffic, and for gas and water mains, power, telegraph and telephone wires or cables, and interurban railroads upon such conditions and for such compensation as may from time to time be prescribed by the Secretary of the Army; provided, that the Washington and Old Dominion Railway, using the Aqueduct Bridge on May 18, 1916, shall be permitted, with the approval of the Secretary of the Army, to change its location so as to cross with a double track the new bridge and approaches herein provided for, and to connect its railway, located in Arlington County, Virginia, and in the District of Columbia, with the tracks of said new bridge; and that all plans for such change are to be approved by the Secretary of the Army; and provided further, that a standard system of electric propulsion shall be installed by said railway on said new bridge, and no dynamo furnishing power to this portion of the road of said railway shall be in any manner connected with the ground, and that the cost of paving and maintaining in good condition between the tracks and 2 feet outside thereof shall be paid by said railway; and provided further, that any

electric railway shall have the right to use said new bridge and the double track above described upon terms determined by the Secretary of the Army, who is hereby authorized and directed to hear the interested parties and to fix the terms of joint trackage.

(May 18, 1916, 39 Stat. 163, ch. 127, § 5; Feb. 28, 1923, 42 Stat. 1338, ch. 148, § 1; June 7, 1926, 44 Stat. 697, ch. 480, § 1.)

**Cross references.** — Public utilities, multiple company use of utility infrastructures, see § 34-1102.

**Prior Codifications.** — 1981 Ed., § 7-511.  
1973 Ed., § 7-511.

**References in text.** — Arlington County was substituted for Alexandria County, in the first proviso of the second sentence of this section, to update terminology.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of

Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-312. South Dakota Avenue Bridge.

No street railway company shall use the bridge authorized by the Act of March 3, 1917 (39 Stat. 1018), for its tracks until such company shall have paid to the Treasurer of the United States a sum equal to one-sixth of the total cost of said bridge, to the credit of the General Fund of the District of Columbia.

(Mar. 3, 1917, 39 Stat. 1018, ch. 160; Feb. 22, 1921, 41 Stat. 1144, ch. 70, § 7; June 28, 1944, 58 Stat. 533, ch. 300, § 18.)

**Prior Codifications.** — 1981 Ed., § 7-512.      1973 Ed., § 7-512.

## § 9-313. Connecticut Avenue Bridge over Klingle Valley.

Any street railway company using the new Connecticut Avenue Bridge over Klingle Valley shall install thereon at its own expense an approved standard underground system and an overhead trolley system of street car propulsion, including trolley poles of approved design, and at its own expense shall thereafter maintain such underground and overhead construction and bear the cost of surfacing, resurfacing, and maintaining in good condition the space between the railway tracks and 2 feet exterior thereto, and shall defray the cost of excess construction occasioned by such use.

(July 3, 1930, 46 Stat. 962, ch. 848.)

**Prior Codifications.** — 1981 Ed., § 7-513.      1973 Ed., § 7-513.

## § 9-314. Benning Bridge.

One-fifth of the cost of constructing the said bridge (in line of Benning Road



over the Anacostia River) and approaches shall be borne and paid by the Washington Railway and Electric Company, its successors and assigns, to the Collector of Taxes of the District of Columbia, to the credit of the District of Columbia, and the same shall be a valid and subsisting lien against the franchises and property of the said railway company and shall constitute a legal indebtedness of said company in favor of the District of Columbia, and the said lien may be enforced in the name of the District of Columbia by a bill in equity brought by the Mayor of the District of Columbia in the Superior Court of the District of Columbia, or by any other lawful proceeding against the said railway company; provided further, that after the completion of said bridge and approaches authorized by the act of June 29, 1932 (47 Stat. 355) no street railway company shall use said bridge or approaches until the said company shall have paid to the Collector of Taxes of the District of Columbia a sum equal to one-fifth of the cost of said bridge and approaches, which sum shall be paid to the Collector of Taxes of the District of Columbia for deposit to the credit of the District of Columbia.

(June 29, 1932, 47 Stat. 355, ch. 308; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(24).)

**Cross references.** — Public utilities, multiple company use of utility infrastructures, see § 34-1102.

**Prior Codifications.** — 1981 Ed., § 7-514.  
1973 Ed., § 7-514.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 9-310.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-315. Fern and Varnum Streets and Eastern Avenue Viaducts.

The viaducts and approaches thereto, to carry Fern and Varnum Streets over the tracks and right-of-way of the Baltimore and Ohio Railroad Company or the viaduct and approaches thereto to carry Eastern Avenue over the tracks and rights-of-way of the Philadelphia, Baltimore and Washington Railroad Company and the Baltimore and Ohio Railroad Company shall not be used by any street railroad company until said Companies shall have paid to the Collector of Taxes of the District of Columbia, a sum equal to one-fourth of the total cost of constructing said viaducts and approaches, to be applied to the credit of the District of Columbia. No limitation shall run against claims made by the District of Columbia under the provisions of this section.

(Mar. 3, 1927, 44 Stat. 1352, ch. 306, § 1.)

**Cross references.** — Pennsylvania Railroad Company, switch and siding connections, see § 9-1205.01 et seq.

**Section references.** — This section is referenced in § 9-1205.04.

**Prior Codifications.** — 1981 Ed., § 7-515. 1973 Ed., § 7-515.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 9-310.

## § 9-316. Certain grade crossings to be closed after completion of Fern Street Viaduct.

From and after the completion of the viaduct and approaches to carry Fern Street over the tracks and right-of-way of the Metropolitan branch of the Baltimore and Ohio Railroad Company, the highway grade crossing over the tracks and right-of-way of the said Baltimore and Ohio Railroad Company at Chestnut Street shall be forever closed against further traffic of any kind; and from and after the completion of the viaduct and approaches to carry Varnum Street over the tracks and right-of-way of the Metropolitan branch of the Baltimore and Ohio Railroad Company, the highway grade crossing over the tracks and right-of-way of the said railroad company at Bates Road shall be forever closed against further traffic of any kind, and from and after the completion of the viaduct and approaches to carry Eastern Avenue over the tracks and right-of-way of the Philadelphia, Baltimore and Washington Railroad Company and the Baltimore and Ohio Railroad Company, the highway grade crossing over the tracks and rights-of-way of the said railroad companies at Quarles Street, shall be forever closed against further traffic of any kind.

(Mar. 3, 1927, 44 Stat. 1354, ch. 306, § 4.)

**Cross references.** — Pennsylvania Railroad Company, switch and siding connections, see § 9-1205.01 et seq.

**Section references.** — This section is referenced in § 9-1205.04.

**Prior Codifications.** — 1981 Ed., § 7-516. 1973 Ed., § 7-516.

## § 9-317. Van Buren Street Subway.

No street railway company shall use the subway and approaches to carry Van Buren Street under the tracks and right-of-way of the Metropolitan branch of the Baltimore and Ohio Railroad Company for its tracks until said Company shall have paid to the Collector of Taxes of the District of Columbia a sum equal to one-fourth of the total cost of said subway and approaches, to be applied to the credit of the District of Columbia.

(Mar. 2, 1925, 43 Stat. 1096, ch. 395, § 1.)

**Prior Codifications.** — 1981 Ed., § 7-517. 1973 Ed., § 7-517.

**Editor's notes.** — Office of Collector of

Taxes abolished: See Historical and Statutory Notes following § 9-310.

## § 9-318. Grade crossing at Lamond closed.

The highway grade crossing formerly over the tracks and right-of-way of the

Metropolitan branch of the Baltimore and Ohio Railroad Company at Lamond shall be forever closed against further traffic of any kind.

(Mar. 2, 1925, 43 Stat. 1097, ch. 395, § 3.)

**Prior Codifications.** — 1981 Ed., § 7-518. 1973 Ed., § 7-518.

### § 9-319. Cedar Street Subway.

No street railway company shall use the subway herein authorized (to carry Cedar Street under the tracks of the Baltimore and Ohio Railroad Company) for its tracks until such company shall have paid to the Treasurer of the United States a sum equal to one-fourth of the total cost of said subway and bridge, to the credit of the General Fund of the District of Columbia.

(May 18, 1910, 36 Stat. 388, ch. 248; Feb. 22, 1921, 41 Stat. 1144, ch. 70, § 7; June 28, 1944, 58 Stat. 533, ch. 300, § 18.)

**Prior Codifications.** — 1981 Ed., § 7-519. 1973 Ed., § 7-519.

### § 9-320. Michigan Avenue Viaduct — Construction; cost; highway grade closed.

The Mayor of the District of Columbia is authorized and directed to construct a viaduct and approaches to eliminate the crossing at grade of Michigan Avenue and the tracks and right-of-way of the Baltimore and Ohio Railroad Company, said viaduct to be constructed north of the present line of Michigan Avenue as may be determined by the Mayor of the District of Columbia in accordance with plans and profiles of said works to be approved by the said Mayor; provided, that one-half of the total cost of constructing the said viaduct and approaches shall be borne and paid by the said railroad company, its successors and assigns, to the Collector of Taxes of the District of Columbia to the credit of the District of Columbia, and the same shall be a valid and subsisting lien against the franchises and property of the said railroad company and shall constitute a legal indebtedness of said company in favor of the District of Columbia, and the said lien may be enforced in the name of the District of Columbia by a bill in equity brought by the said Mayor in the Superior Court of the District of Columbia, or by any other lawful proceeding against the said railroad company; provided further, that from and after the completion of the said viaduct and approaches the highway grade crossing over the tracks and right-of-way of the said Baltimore and Ohio Railroad Company in line of present Michigan Avenue shall be forever closed against further traffic of any kind.

(Mar. 3, 1927, 44 Stat. 1351, ch. 305, § 1; Feb. 12, 1931, 46 Stat. 1087, ch. 119; June 14, 1935, 49 Stat. 349, ch. 241, § 1; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(25).)



**Section references.** — This section is referenced in § 9-321.

**Prior Codifications.** — 1981 Ed., § 7-520. 1973 Ed., § 7-520.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 9-310.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CASE NOTES

### In general.

Fact that construction of viaduct eliminating grade crossing would require traffic coming from one direction to take a roundabout and inconvenient route to reach adjoining property owner's garage, and that traffic coming from other direction would be required to make left-hand turn across lane of traffic in order to enter garage, did not constitute such an injury as to entitle garage owner to recover damages from District of Columbia constructing viaduct. *Ralph v. Hazen*, 93 F.2d 68, 1937 U.S. App. LEXIS 2722 (1937).

Landowners claiming fee-simple title to center of avenue in front of their property, subject to public right of way, were not entitled to damages where approaches for viaduct were placed in bed of avenue in front of their prop-

erty, since the use of avenue with viaduct and approaches merely continued the use of the right of way easement. *Ralph v. Hazen*, 93 F.2d 68, 1937 U.S. App. LEXIS 2722 (1937).

Where statute authorized Commissioners of District of Columbia to eliminate railroad grade crossing by constructing viaduct north of present line of avenue as might be determined by the Commissioners, fact that viaduct was not entirely north of avenue did not require determination that viaduct as constructed was not authorized and was not within terms of statute, especially where statute left to discretion of Commissioners exact location of viaduct. Act February 12, 1931, §§ 1, 4, 46 Stat. 1087, 1088. *Ralph v. Hazen*, 93 F.2d 68, 1937 U.S. App. LEXIS 2722 (1937).

## § 9-321. Michigan Avenue Viaduct — Use by street railway companies.

No street railway company shall use the viaduct or any approaches thereto authorized by § 9-320 for its tracks until the said company shall have paid to the Collector of Taxes of the District of Columbia a sum equal to one-fourth of the cost of said viaduct and approaches, which sum shall be deposited to the credit of the District of Columbia.

(Mar. 3, 1927, 44 Stat. 1352, ch. 305, § 2.)

**Prior Codifications.** — 1981 Ed., § 7-521. 1973 Ed., § 7-521.

**Editor's notes.** — Office of Collector of

Taxes abolished: See Historical and Statutory Notes following § 9-310.

## § 9-322. Highway grade crossing at Michigan Avenue closed.

From and after the completion of the said viaduct and approaches, the highway grade crossing over the tracks and the right-of-way of the said

Baltimore and Ohio Railroad Company at Michigan Avenue in the District of Columbia shall be forever closed against further traffic of any kind.

(Mar. 3, 1927, 44 Stat. 1352, ch. 305, § 4.)

**Prior Codifications.** — 1981 Ed., § 7-522. 1973 Ed., § 7-522.

### § 9-323. Subway under Baltimore and Ohio tracks in vicinity of Chestnut Street, Fern Place, and Piney Branch Road.

One-half of the total cost of constructing a subway under the tracks and right-of-way of the Baltimore and Ohio Railroad Company in the vicinity of Chestnut Street or of the intersection of Fern Place and Piney Branch Road, extended, and thereafter the cost of maintaining the structure within the limits of its right-of-way shall be borne and paid by the said Baltimore and Ohio Railroad Company, its successors and assigns, to the Collector of Taxes of the District of Columbia for the deposit to the credit of the District of Columbia, and the same shall be a valid and subsisting lien against the franchises and property of the said railroad company, and shall constitute a legal indebtedness against the said railroad company in favor of the District of Columbia, and said lien may be enforced in the name of the District of Columbia by a bill in equity brought by the Mayor of the District of Columbia in the Superior Court of the District of Columbia, or by any other legal proceeding against the said railroad company; provided, that from and after the completion of the said subway and approaches, the highway grade crossing over the tracks and right-of-way of the said Baltimore and Ohio Railroad Company at Chestnut Street shall be forever closed against further traffic of any kind.

(July 3, 1930, 46 Stat. 963, ch. 848; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(26).)

**Prior Codifications.** — 1981 Ed., § 7-523. 1973 Ed., § 7-523.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 9-310.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-324. Calvert Street Bridge.

Any street railway company using the bridge constructed to replace the Calvert Street Bridge over Rock Creek, as authorized by the Act of June 16, 1933 (48 Stat. 229, ch. 93) shall install thereon, at its own expense, an



approved underground system of streetcar propulsion and, at its own expense, shall thereafter maintain such underground construction, and bear the cost of surfacing and resurfacing and maintaining in good condition the space between the railway tracks and 2 feet exterior thereto as provided by law, and shall defray the cost of excess construction occasioned by such use including the relocation and construction of closed plow pits at the west approach to the bridge in accordance with plans to be approved by the Mayor of the District of Columbia.

(June 16, 1933, 48 Stat. 229, ch. 93.)

**Prior Codifications.** — 1981 Ed., § 7-524.  
1973 Ed., § 7-524.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-325. Francis Case Memorial Bridge.

The bridge crossing the Washington Channel of the Potomac River on Interstate Route 395, approximately 100 yards downstream from the outlet gate of the Tidal Basin, near the intersection of the extension of 13th and G Streets Southwest, shall be known and designated as the "Francis Case Memorial Bridge." Any law, regulation, map, document, record, or other paper of the United States or of the District of Columbia in which such bridge is referred to shall be held to refer to such bridge as the "Francis Case Memorial Bridge."

(Sept. 25, 1965, 79 Stat. 838, Pub. L. 89-203, § 1.)

**Prior Codifications.** — 1981 Ed., § 7-525.  
1973 Ed., § 7-525.

**References in text.** — Interstate Route 395

was substituted for Interstate Route 95 in the first sentence of this section to update terminology.

## § 9-326. Washington Channel Bridge.

(a) The Secretary of the Interior is hereby authorized to provide for the construction, maintenance, and operation of a bridge, with visitor facilities, over the Washington Channel, from the vicinity of 10th Street Southwest to East Potomac Park in Washington, District of Columbia. The structure may be so designed and constructed as to provide facilities for the accommodation of visitors to the Nation's Capital area, and to provide convenient and adequate access to East Potomac Park.

(b) The Secretary may obtain and use such lands or interests therein owned, controlled, or administered by the District of Columbia, the District of Columbia Redevelopment Land Agency, the Corps of Engineers, or any other



Government agency, with the prior consent of such agency or agencies, as he shall consider necessary for the construction and operation of said bridge, without cost or reimbursement. Before construction is commenced, the location and plans for the bridge shall be approved by the Chief of Engineers and the Secretary of the Army subject to such conditions as they may prescribe, in accordance with § 525(b) of Title 33, United States Code.

(c) The Secretary is authorized to enter into appropriate arrangements for the construction and operation of the bridge in accordance with the authority contained in § 3 of Title 16, United States Code, as amended, except that any such arrangements need not be limited to a maximum term of 30 years. The bridge, at all times, shall be under the jurisdiction of the Secretary of the Interior, and shall be administered, operated, maintained, and policed as a part of the park system of the National Capital.

(d) The Secretary of the Interior shall cooperate with other federal and local agencies with respect to the construction and operation of the bridge by him and the construction and operation of associated facilities by such other federal and local agencies including the District of Columbia Redevelopment Land Agency which shall enter into appropriate arrangements by negotiation or public bid to: (1) lease all or part of the land bounded by Maine Avenue, Ninth Street and the Southwest Freeway, Southwest, to provide for the construction, maintenance and operation of a structured automobile parking facility designed to accommodate visitors to East Potomac Park; and (2) provide for the construction of: (A) a public park or overlook, which park is to be maintained and operated by the National Park Service; and (B) roads providing access to the 10th Street Mall from the Southwest Freeway and to and from 9th Street, Southwest, which roads shall be maintained and operated by the District of Columbia. Any lease of the aforementioned area, executed by the District of Columbia Redevelopment Land Agency, shall provide appropriate easements for the construction, maintenance and operation of the aforesaid public park and roadways. Local agencies may enter into arrangements with the person, persons, corporation or corporations, as the Secretary may select pursuant to subsection (c) of this section for the construction and operation of necessary associated facilities otherwise authorized.

(e)(1) There is hereby established an Advisory Committee, which shall be composed of the Chairman, National Capital Planning Commission; the Chairman, Commission of Fine Arts; the Commissioner of the District of Columbia; the Chief of Engineers, United States Army; the Chairman, District of Columbia Redevelopment Land Agency; and 3 members to be appointed by the Secretary of the Interior from among the residents of the Metropolitan Washington area. The ex-officio members of the Committee may be represented by their designees.

(2) Members of the Committee shall serve without compensation, but the Secretary is authorized to pay any expenses reasonably incurred by the Committee in carrying out its responsibilities under this section.

(3) The Secretary shall designate 1 member of the Committee to be Chairman. The Committee shall act and advise by the affirmative vote of a majority of its members.

(4) The Secretary or his designee shall, from time to time, consult with and obtain the advice of the Committee with respect to matters relating to the design, construction, and operation of the bridge and any associated facilities.

(f) The construction and operation of the bridge shall be at no expense to the federal government, and there are hereby authorized to be appropriated such sums as may be necessary for maintenance of the bridge and to carry out the other purposes of this section.

(Nov. 7, 1966, 80 Stat. 1417, Pub. L. 89-789, title I, § 111.)

**Prior Codifications.** — 1981 Ed., § 7-526.  
1973 Ed., § 7-526.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CHAPTER 4. STREET REPAIR AND CONSTRUCTION.

*Subchapter I. General*

Sec.

- 9-401.01. Cost of construction and repairs; payments.
- 9-401.02. Removal of street railway tracks.
- 9-401.03. Water and gas mains, service pipes, and sewer connections.
- 9-401.04. Assessments for sidewalks and curbing.
- 9-401.05. Mayor to submit schedules of streets to be improved.
- 9-401.06. Improvement and repairs of alleys and sidewalks; construction of sewers and sidewalks.
- 9-401.07. Repayments from Permit Fund.
- 9-401.08. Service connections with water mains and sewer.
- 9-401.09. Paving or resurfacing roadway of streets, avenues, and roads.
- 9-401.10. Assessments for costs of paving streets.
- 9-401.11. Width of pavement of streets.
- 9-401.12. Minor changes in roadway width.
- 9-401.13. Use of bituminous macadam authorized.
- 9-401.14. Use of portable asphalt plant.
- 9-401.15. Unexpended allotments for street paving made available for succeeding year.
- 9-401.16. Limitation on contracts of Mayor.
- 9-401.17. Contracts for repairs not to exceed 5 years.
- 9-401.18. Exemptions of abutting property from deposits and assessments.

*Subchapter II. Special Assessments*

- 9-411.01. Special assessments for curbs and gutters levied.
- 9-411.02. Special assessments for curbs and gutters levied — Computation.
- 9-411.03. Special assessments for curbs and gutters levied — Property abutting 2 or more streets, avenues, or roads.
- 9-411.04. Roadway improvements and curbs and gutters completed after May 25, 1943.

*Subchapter III. Assessment When Roadway Paved*

Sec.

- 9-421.01. Amount assessed; levied pro rata.
- 9-421.02. Assessment for gutters and curbs.
- 9-421.03. Certain roadway improvements excepted.
- 9-421.04. Limitations on assessments; computation.
- 9-421.05. Property exempt where prior assessment paid.
- 9-421.06. Property exempt where prior roadway improvement made at owner's expense.
- 9-421.07. Exemption for resurfacing by heater method.
- 9-421.08. Property abutting 2 or more streets.
- 9-421.09. Collection; interest; exception to requirement of advertising.
- 9-421.10. Protest by property owner.
- 9-421.11. Cancellation of prior assessments; reassessments; refunds.
- 9-421.12. Assessment when roadway paved — Severability.
- 9-421.13. Applicability to assessments levied prior to 1885.

*Subchapter III-A. Sidewalk Installation, Safety, and Accessibility*

- 9-425.01. Sidewalk installation requirements.
- 9-425.02. Notice and design requirements.
- 9-425.03. Exemptions.

*Subchapter IV. Cutting of Trenches*

## PART A

## Cutting Trenches in Highways, 1898

- 9-431.01. Permit required; exceptions.
- 9-431.02. Penalty; prosecution.

## PART B

## Cutting Trenches in Highways, 2000

- 9-433.01. Permit required; exceptions.
- 9-433.02. Penalty; prosecution.

*Subchapter V. Repealed Provisions*

- 9-451.01 to 9-451.03. [Repealed].

*Subchapter I. General.***§ 9-401.01. Cost of construction and repairs; payments.**

The cost of laying down said pavement, sewers, and other works, or of repairing the same, shall be paid for in the following proportions and manner, to wit: The United States shall pay one-half of the cost of all work done under



the provisions of this section, except as hereinafter provided, which payment shall be credited as part of the 50 per centum which the United States contributes toward the expenses of the District of Columbia for that year; and all payments shall be made by the Secretary of the Treasury on the warrant or order of the Mayor of the District of Columbia, in such amounts and at such times they may deem safe and proper in view of the progress of the work; provided, that the Capital Transit Company herein provided for shall bear the entire cost of paving, repairs, or replacements incident to track repairs, replacements, or changes made at a time when the street or bridge is not being paved, and shall bear one-half the cost of other paving, repaving, or maintenance of paving between its track and for 2 feet outside the outer rails, and shall bear the excess cost of construction and maintenance of public bridges due to the existence or installation of its tracks on such bridges; provided further, that nothing herein contained shall relieve said Capital Transit Company from liability for street paving as owner of real estate apart from right-of-way occupied by its tracks as provided by § 9-401.10; and if such company shall fail or refuse to pay the sum due from them in respect of the work done by or under the orders of the proper officials of said District, the Mayor of the District of Columbia shall issue certificates of indebtedness against the property, real or personal, of such railway company, which certificates shall bear interest at the rate of 10 per centum per annum until paid, and which, until they are paid, shall remain and be a lien upon the property on or against which they are issued together with the franchise of said company; and if the said certificates are not paid within 1 year, the said Mayor of the District of Columbia may proceed to sell the property against which they are issued, or so much thereof as may be necessary to pay the amount due, such sale to be first duly advertised daily for 1 week in some newspaper published in the City of Washington, and to be at public auction to the highest bidder. When street railways cross any street or avenue, the pavement between the tracks of such railway shall conform to the pavement used upon such street or avenue, and the companies owning these intersecting railroads shall pay for such pavements in the same manner and proportion as required of other railway companies under the provisions of this section.

(June 11, 1878, 20 Stat. 106, ch. 180, § 5; Jan. 14, 1933, 47 Stat. 759, ch. 10, § 3.)

**Cross references.** — Anacostia Bridge, Anacostia and Potomac River Railroad Company, construction and repair costs, collection, see § 9-305.

Bridges across Rock Creek, railway installations, construction and repair costs, collection, see § 9-303.

Bridges, construction and repair costs, collection of liens against railway and canal companies, see § 9-302.

Special assessments, power of mayor to alter, see § 47-1202.

**Section references.** — This section is referenced in § 9-302, § 9-303, § 9-305, § 9-401.09, and § 9-401.10.

**Prior Codifications.** — 1981 Ed., § 7-604. 1973 Ed., § 7-604.

**References in text.** — The Capital Transit Company, referred to twice near the middle of this section, has been succeeded by the D.C. Transit System, Inc.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia.

These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### **In general.**

Congress, in authorizing formulation of the Capital Transit Company in the District of Columbia, intended to impose only ultimate financial cost, as distinguished from legal duty of street maintenance upon the company. D.C. Code 1951, § 7-604; Joint Resolution Jan. 14, 1933, 47 Stat. 752. *Fisher v. Capital Transit Co.*, 246 F.2d 666, 1957 U.S. App. LEXIS 3608 (C.A.D.C. 1957).

Transit Company in the District of Columbia owed no duty to pedestrians to inspect, maintain, and repair its tracks and, therefore, was not liable for personal injuries sustained by pedestrian who, while crossing street, fell when he caught his foot in hole located in or near streetcar tracks or for resulting loss of consortium to pedestrian's wife. D.C. Code 1951, § 7-604; Joint Resolution Jan. 14, 1933, 47 Stat. 752; Act June 11, 1878, § 5, 20 Stat. 105. *Fisher v. Capital Transit Co.*, 246 F.2d 666, 1957 U.S. App. LEXIS 3608 (C.A.D.C. 1957).

Transit company did not have responsibility of removing abandoned trolley tracks which constituted a continuing hazard for bicycle, motorcycle and automobile traffic within District of Columbia, but only had responsibility to pay cost of removal when incurred. D.C. Code §§ 7-604, 7-604a; Act July 24, 1956, 70 Stat. 599, § 7. *Joseph v. District of Columbia*, 366 F. Supp. 757, 1973 U.S. Dist. LEXIS 14644 (1973), affirmed without opinion by 495 F.2d 1075, 162 U.S. App. D.C. 19 (1974).

District of Columbia had duty of removing abandoned trolley tracks, which constituted a continuing hazard for bicycle, motorcycle and automobile traffic within District, and would be required to file firm plan for removing tracks within three years of such filing. D.C. Code §§ 7-604, 7-604a; Act July 24, 1956, 70 Stat. 599, § 7. *Joseph v. District of Columbia*, 366 F. Supp. 757, 1973 U.S. Dist. LEXIS 14644 (1973), affirmed without opinion by 495 F.2d 1075, 162 U.S. App. D.C. 19 (1974).

## **§ 9-401.02. Removal of street railway tracks.**

On and after July 1, 1941, when any Capital Transit Company street railway operation shall have been ordered abandoned by the Public Service Commission of the District of Columbia and the Council of the District of Columbia shall have ordered the removal of abandoned tracks, the Capital Transit Company shall pay the entire cost of removing such abandoned tracks and regrading the track area, and, if the street or bridge in which the said tracks have been ordered abandoned is not being paved, the Capital Transit Company shall pay the entire cost of paving the abandoned track areas, which cost, however, shall not exceed the cost of repaving such abandoned track areas with the type, character, and thickness of the paving of the adjacent roadway left in place, and, if the roadway of the street or bridge is being paved at the time of removal of said abandoned tracks, the Capital Transit Company shall pay one-half of the actual cost of paving the abandoned track areas, irrespective of whether the paving is of the type, character, and thickness as that existing at the time of said removal. The Council of the District of Columbia is authorized to settle in conformity with the principles herein set forth, any claims it now has, or in the future may have, for the paving of abandoned track areas, upon such terms and conditions as to time of payment or payments as the Council may determine.



(July 1, 1941, 55 Stat. 533, ch. 271; Aug. 30, 1964, 78 Stat. 634, Pub. L. 88-503, § 21.)

**Prior Codifications.** — 1981 Ed., § 7-605. 1973 Ed., § 7-604a.

**References in text.** — The Capital Transit Company, referred to throughout this section, has been succeeded by the D.C. Transit System, Inc.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(170) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### In general.

Transit company did not have responsibility of removing abandoned trolley tracks which constituted a continuing hazard for bicycle, motorcycle and automobile traffic within District of Columbia, but only had responsibility to pay cost of removal when incurred. D.C. Code §§ 7-604, 7-604a; Act July 24, 1956, 70 Stat. 599, § 7. *Joseph v. District of Columbia*, 366 F. Supp. 757, 1973 U.S. Dist. LEXIS 14644 (1973), affirmed without opinion by 495 F.2d 1075, 162 U.S. App. D.C. 19 (1974).

District of Columbia had duty of removing abandoned trolley tracks, which constituted a continuing hazard for bicycle, motorcycle and automobile traffic within District, and would be

required to file firm plan for removing tracks within three years of such filing. D.C. Code §§ 7-604, 7-604a; Act July 24, 1956, 70 Stat. 599, § 7. *Joseph v. District of Columbia*, 366 F. Supp. 757, 1973 U.S. Dist. LEXIS 14644 (1973), affirmed without opinion by 495 F.2d 1075, 162 U.S. App. D.C. 19 (1974).

Washington, D.C., like other municipalities, has common-law obligation to exercise reasonable care to keep streets in reasonably safe condition, and municipality which fails in such obligation is liable in damages. *Joseph v. District of Columbia*, 366 F. Supp. 757, 1973 U.S. Dist. LEXIS 14644 (1973), affirmed without opinion by 495 F.2d 1075, 162 U.S. App. D.C. 19 (1974).

## § 9-401.03. Water and gas mains, service pipes, and sewer connections.

It shall be the duty of the Mayor of the District of Columbia to see that all water and gas mains, service pipes, and sewer connections are laid upon any street or avenue proposed to be paved or otherwise improved before any such pavement or other permanent works are put down; and the Washington Gas Light Company, under the direction of said Mayor, shall at its own expense take up, lay, and replace all gas mains on any street or avenue to be paved, at such time and place as said Mayor shall direct, except as provided in §§ 6-301.04(c) [repealed], 6-301.06(h) [repealed], and 9-107.02.

(June 11, 1878, 20 Stat. 107, ch. 180, § 5; Oct. 14, 1972, 86 Stat. 813, Pub. L. 92-495, § 5.)

**Cross references.** — Sewer, water, and gas mains, excavation fees, see § 2-136.

Water and sewer systems, flood hazard prevention, see § 6-503.



Water mains and service sewers, see §§ 34-2401.01 and 34-2405.01.

**Prior Codifications.** — 1981 Ed., § 7-606. 1973 Ed., § 7-605.

#### § 9-401.04. Assessments for sidewalks and curbing.

When new sidewalks, alleys, or curbing are required to be laid on streets being improved, no cost shall be assessed against abutting property.

(Aug. 7, 1894, 28 Stat. 250, ch. 232; May 21, 2002, D.C. Law 14-136, § 2, 49 DCR 3441.)

**Section references.** — This section is referenced in § 9-411.03 and § 9-421.11.

**Prior Codifications.** — 1981 Ed., § 7-607. 1973 Ed., § 7-606.

**Effect of amendments.** — D.C. Law 14-136 rewrote the section which had read as follows: “When new sidewalks or curbing are required to be laid on streets being improved, one-half the total cost shall be assessed against abutting property, in like manner and under the law governing in the case of assessment and permit work; provided, that abutting property shall not be liable to such assessment when sidewalk and curbing have been laid by the District authorities in front of the same under the

assessment and permit system within 2 years prior to such assessment.”

**Legislative history of Law 14-136.** — Law 14-136, the “Sidewalk and Curbing Assessment Amendment Act of 2002”, was introduced in Council and assigned Bill No. 14-279, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on February 5, 2002, and March 5, 2002, respectively. Signed by the Mayor on 25, 2002, it was assigned Act No. 14-312 and transmitted to both Houses of Congress for its review. D.C. Law 14-136 became effective on May 21, 2002.

#### § 9-401.05. Mayor to submit schedules of streets to be improved.

The Mayor of the District of Columbia, in submitting the schedules of streets and avenues to be improved, shall each year arrange said streets and avenues in the order of their importance, as determined by him after personal examination of said streets and avenues.

(Mar. 3, 1903, 32 Stat. 962, ch. 992.)

**Prior Codifications.** — 1981 Ed., § 7-608. 1973 Ed., § 7-607.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### § 9-401.06. Improvement and repairs of alleys and sidewalks; construction of sewers and sidewalks.

(a) The Mayor of the District of Columbia is authorized and empowered, whenever in his judgment the public health, safety, or comfort require it, or whenever application shall be made therefor, accompanied by a deposit equal

to one-half the estimated cost of the work, to improve and repair alleys and sidewalks, and to construct sewers and sidewalks in the District of Columbia of such form and materials as he may determine, and to pay the total cost of such work from appropriations for assessment and permit work.

(b) Said Mayor shall give notice by advertisement, twice a week for 2 weeks in some newspaper published in the City of Washington, of any assessment work proposed to be done by him under this section, designating the location and the kind of work to be done, specifying the kind of materials to be used, the estimated cost of the improvement, and fixing a time and place when and where property owners to be assessed can appear and present objections thereto, and for hearing thereof. One-half of the total cost of the assessment work herein provided for, including the expenses of the assessment, shall be charged against and become a lien upon abutting property, and an assessment therefor shall be levied pro rata according to the linear frontage of said property; provided, that no such assessment shall be levied against abutting property for the cost of repairing alleys or sidewalks when the damage requiring such repair is caused by the growth of roots of trees on public space or the cause of such damage is otherwise beyond the control of the owner of such property. One-half of the cost of the assessment work done under the provisions of this section shall be paid to the Director of the Department of Finance and Revenue of the District of Columbia, as follows: one-third of the amount within 60 days after service of notice of such assessment, without interest; one-third within 1 year, and the remainder within 2 years from the date of such service of notice, and interest shall be charged at the rate of 6 per centum per annum from the date of service of such notice on all amounts which shall remain unpaid at the expiration of 60 days after service of notice of such assessment, which in all cases shall be served upon each lot owner, if he or she be a resident of the District, and his or her residence known, and if he or she be a nonresident of the District, or his or her residence unknown, such notice shall be served on his or her tenant or agent, as the case may be, and if there be no tenant or agent known to the Mayor, then he shall give notice of such assessment by advertisement twice a week for 2 weeks in some newspaper published in said District. The service of such notice, where the owner or his tenant or agent resides in the District of Columbia, shall be either personal or by leaving the same with some person of suitable age at the residence or place of business of such owner, agent, or tenant; and return of such service, stating the manner thereof, shall be made in writing and filed in the office of said Mayor; provided, that the cost of publication of the notice herein provided for, and the service of such notices shall be paid out of the appropriations for assessment and permit work. Any property upon which such assessment and accrued interest thereon, or any part thereof, shall remain unpaid at the expiration of 2 years from the date of service of notice of such assessment shall be subject to sale therefor under the same conditions and penalties which are imposed by existing laws for the nonpayment of general taxes; and if any property assessed as herein provided for shall become liable to sale for any other assessment or tax whatever, then the assessments levied under this section shall become immediately due and payable, and the property against



which they are levied may be sold therefor, together with the accrued interest thereon, and the cost of advertising, to the date of such sale. Property owners who request improvements under the permit system shall deposit in advance with the Director of the Department of Finance and Revenue of the District of Columbia an amount equal to one-half the estimated cost of such improvements, and in such cases it shall not be necessary to give the notice hereinbefore provided for. All moneys received by the Director of the Department of Finance and Revenue of the District of Columbia for work done upon the request of property owners, as herein provided for, shall be deposited by him in the United States Treasury to the credit of the Permit Fund. Upon the completion of work done as aforesaid at the request of property owners, the Mayor shall repay to the then current appropriation for assessment and permit work, out of the Permit Fund, a sum equivalent to one-half of the cost of the work, and shall return to the depositors, from the same fund, as application may be made therefor, any surplus that may remain over and above one-half of the cost of the work. All sums received by the Director under the provisions of this section on account of assessment work, and in payment of assessments heretofore made prior to August 7, 1894, for compulsory permit work, shall be credited to the appropriation for assessment and permit work for the fiscal years in which they are collected; provided further, that the costs of service connections with water mains and sewers shall be assessed against the lots for which said connections are made, and shall be collected in the same manner and upon the same conditions as to notice as herein provided for assessment work.

(Aug. 7, 1894, 28 Stat. 247, ch. 232; Feb. 20, 1931, 46 Stat. 1198, ch. 246, § 9; Sept. 25, 1962, 76 Stat. 598, Pub. L. 87-700, § )

**Cross references.** — Taxation and fiscal affairs, special assessments for public improvements, see § 47-1201 et seq.

Water and sewer systems, flood hazard prevention, see § 6-503.

Water mains and service sewers, see §§ 34-2401.01 and 34-2405.01.

**Section references.** — This section is referenced in § 2-1217.31, § 9-421.09, and § 9-421.10.

**Prior Codifications.** — 1981 Ed., § 7-609. 1973 Ed., § 7-608.

**Editor's notes.** — Office of Collector of Taxes abolished: The Office of the Collector of Taxes was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. All functions of the Office of the Collector of Taxes including the functions of all officers, employees and subordinate agencies are transferred to the Director, Department of General Administration by Reorganization Order No. 3, dated August 28, 1952. Reorganization Order No. 20, dated November 10, 1952, transferred the functions of the Collector of Taxes to the Finance Office. The same

Order provided for the Office of the Collector of Taxes headed by a Collector in the Finance Office, and abolished the previously existing Office of the Collector of Taxes. Reorganization Order No. 20 was superseded and replaced by Organization Order No. 121, dated December 12, 1957, which provided that the Finance Office (consisting of the Office of the Finance Officer, Property Tax Division, Revenue Division, Treasury Division, Accounting Division, and Data Processing Division) would continue under the direction and control of the Director of General Administration, and that the Treasury Division would perform the function of collecting revenues of the District of Columbia and depositing the same with the Treasurer of the United States, and Organization Order No. 121 was revoked by Organization Order No. 3, dated December 13, 1967, Part IVC of which prescribed the functions of the Finance Office within a newly established Department of General Administration. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions of the Finance Office as stated in



Part IVC of Organization Order No. 3 were transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969. The collection functions of the Director of the Department of Finance and Revenue were transferred to the District of Columbia Treasurer by § 47-316 on March 5, 1981.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### In general.

Municipality was under a duty to exercise reasonable care in maintaining its sidewalk, but that duty became secondary to the duty of the abutting landowner where the landowner was making a special use of the sidewalk for a driveway entrance to his gasoline station. *District of Columbia v. Texaco, Inc.*, 324 A.2d 690, 1974 D.C. App. LEXIS 267 (1974).

Where an abutter makes a special use of the sidewalk, he owes a duty to the public to maintain the sidewalk in a reasonably safe condition and may be held liable for injuries

resulting from an unsafe or dangerous condition created by the special use. *District of Columbia v. Texaco, Inc.*, 324 A.2d 690, 1974 D.C. App. LEXIS 267 (1974).

There is a "special use" of a sidewalk by an abutter, such that the abutter is liable for injuries resulting from unsafe or dangerous conditions created by the use, where the abutter uses the sidewalk as a driveway entrance to his gasoline station and, as a result, causes an unsafe or dangerous condition. *District of Columbia v. Texaco, Inc.*, 324 A.2d 690, 1974 D.C. App. LEXIS 267 (1974).

### § 9-401.07. Repayments from Permit Fund.

Repayments from the Permit Fund to the appropriation for assessment and permit work shall be credited to the appropriation for the fiscal year in which the repayment is made.

(Mar. 2, 1907, 34 Stat. 1127, ch. 2510.)

**Prior Codifications.** — 1981 Ed., § 7-610. 1973 Ed., § 7-609.

### § 9-401.08. Service connections with water mains and sewer.

The Mayor of the District of Columbia is hereby authorized whenever the roadway of a street is about to be paved or macadamized to make service connections in such street for all abutting lots and premises with the water mains and sewer provided for the service of said lots and premises. The entire cost of the said connections shall be paid from the current appropriations respectively for the extension of the sewer and water-supply systems and shall be assessed against the abutting property and collected in like manner as assessments which are levied under the compulsory permit system; the sums so collected shall be credited to the respective appropriations for the extension of the sewer and water-supply systems for the fiscal year during which said collections are made.

(Mar. 14, 1894, 28 Stat. 44, ch. 40.)

**Cross references.** — Taxation and fiscal affairs, special assessments for public improvements, see § 47-1201 et seq.

Water mains and service sewers, see §§ 34-2401.01 and 34-2405.01.

**Prior Codifications.** — 1981 Ed., § 7-611. 1973 Ed., § 7-610.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-401.09. Paving or resurfacing roadway of streets, avenues, and roads.

(a) Whenever under appropriations made by Congress, the roadway of any street, avenue, or road in the District of Columbia is improved by laying a new pavement thereon or completely resurfacing the same not less than 1 square in extent, from curb to curb, or from gutter to gutter where no curb exists, where the material used is sheet asphalt, asphalt block, asphaltic or bituminous macadam, concrete, or other fixed roadway pavement, such proportion of the total cost of the work, including all expenses of the assessment, to be made as prescribed by § 9-401.10, shall be charged against and become a lien upon the abutting property, and assessments therefor shall be levied pro rata according to the linear frontage of said property on the street, avenue, or road, or portion thereof upon the roadway of which said new pavement or resurfacing is laid; provided, that there shall be excepted from such assessment the cost of paving the roadway space included within the intersection of streets, avenues, and roads, as said intersections are included within the building lines projected, and also the cost of paving the space within such roadways for which street railway companies are responsible under their charters or under law on streets, avenues, or roads where such railways have been or shall be constructed.

(b) All of the expenses of maintenance and repairs shall be paid from the revenues of the District of Columbia and in addition, such sums as may be appropriated out of any money in the Treasury of the United States not otherwise appropriated. Nothing contained in this section shall be construed as relieving street railway companies from bearing one-half the expense of paving streets or avenues between the exterior rails of the tracks of their roads in the District of Columbia and for a distance of 2 feet from and exterior to such tracks on each side thereof and of keeping the same in repair, as required by § 9-401.01.

(July 21, 1914, 38 Stat. 524, ch. 191; July 29, 1914, 38 Stat. 565, ch. 215; Jan. 14, 1933, 47 Stat. 759, ch. 10, § 3.)



**Cross references.** — Taxation and fiscal affairs, special assessments for public improvements, see § 47-1201 et seq.

**Section references.** — This section is referenced in § 9-411.03.

**Prior Codifications.** — 1981 Ed., § 7-612. 1973 Ed., § 7-611.

## § 9-401.10. Assessments for costs of paving streets.

(a) The half cost of the paving or repaving of a roadway between the side thereof and the center thereof with sheet asphalt, asphalt block, granite block, vitrified block, cement concrete, bituminous concrete, macadam, or other form of pavement shall be assessed against the property abutting the side of the street so improved, such assessments to be levied and collected as provided on September 1, 1916, as to alleys and sidewalks; provided, that the advertisement by publication of the intention of the Mayor of the District of Columbia to do such work and the formal hearing in respect thereto required by law as to alley and sidewalk improvements shall not be required as to roadway improvements.

(b) There shall be included in the area the cost of which is assessable hereunder only the roadway area abutting the property between lines normally projected from the building line of the street being improved at the points of intersection with the building lines of intersecting streets.

(c) There shall be excluded from the cost of the roadway work to be assessed hereunder:

(1) The cost of all such work beyond a line 20 feet from the side thereof;

(2) The cost of all such work within the space within which street railway companies are required to pave by law, and nothing herein contained shall be construed as relieving street railway companies from bearing one-half the cost of paving and repairing streets and avenues between lines 2 feet exterior to the outer rails of their tracks, as required by § 9-401.01;

(3) That no frontage of abutting property, on which a legal assessment for paving or repaving has been levied and paid hereunder, shall be liable to any further assessment hereunder on account of the replacement of such pavement.

(Sept. 1, 1916, 39 Stat. 716, ch. 433, § 8; Feb. 9, 1927, 44 Stat. 1064, ch. 87; Jan. 14, 1933, 47 Stat. 759, ch. 10, § 3.)

**Cross references.** — Taxation and fiscal affairs, special assessments for public improvements, see § 47-1201 et seq.

**Section references.** — This section is referenced in § 9-401.01, § 9-401.09, and § 9-411.03.

**Prior Codifications.** — 1981 Ed., § 7-613. 1973 Ed., § 7-612.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmen-

tal Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to



§ 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-401.11. Width of pavement of streets.

No street or avenue in the District of Columbia shall be paved less in width than the width provided by law except by express authority of Congress upon estimates to be submitted to Congress by the Mayor of the District of Columbia.

(Mar. 2, 1907, 34 Stat. 1127, ch. 2510.)

**Prior Codifications.** — 1981 Ed., § 7-618.  
1973 Ed., § 7-613.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-401.12. Minor changes in roadway width.

The Mayor of the District of Columbia is authorized to change any roadway width by an amount not in excess of 1 foot whenever hereafter he considers the same necessary and advisable in connection with the resurfacing or other improvement of the street.

(May 18, 1910, 36 Stat. 387, ch. 248, § 1.)

**Cross references.** — Highway plans, width restrictions, see § 9-103.01.

**Prior Codifications.** — 1981 Ed., § 7-619.  
1973 Ed., § 7-613a.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-401.13. Use of bituminous macadam authorized.

The use of bituminous macadam is authorized on streets, avenues, and roads to be improved or paved.

(June 26, 1912, 37 Stat. 150, ch. 182.)

**Prior Codifications.** — 1981 Ed., § 7-622. 1973 Ed., § 7-617.

**§ 9-401.14. Use of portable asphalt plant.**

The portable asphalt plant purchased under the appropriation for repairs of streets, avenues, and alleys for the fiscal year 1913, may be operated under the immediate direction of the Mayor of the District of Columbia in doing such work of resurfacing and repairs to asphalt pavements, in the repair of macadam streets by constructing on such macadam streets and asphalt macadam wearing surface and in the construction of asphaltic macadam surfaces on concrete base, as in his judgment may be economically performed by the use of said plant; provided, that at no time shall more work of resurfacing and repairs be done with the portable asphalt plant than can be accomplished with the single portable plant owned on March 4, 1913, by the District of Columbia.

(Mar. 4, 1913, 37 Stat. 948, ch. 150.)

**Prior Codifications.** — 1981 Ed., § 7-623. 1973 Ed., § 7-618.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

**§ 9-401.15. Unexpended allotments for street paving made available for succeeding year.**

When as many streets and entire blocks of streets in any section have been paved as the amount allotted to that section will permit, and there still remains a balance insufficient to pave an entire block of the street provided for pavement upon the schedule, such balance shall remain available and be added to the allotment for that section for the next succeeding year.

(June 6, 1900, 31 Stat. 559, ch. 789.)

**Prior Codifications.** — 1981 Ed., § 7-624. 1973 Ed., § 7-619.

**§ 9-401.16. Limitation on contracts of Mayor.**

The Mayor of the District of Columbia is prohibited from incurring or contracting liabilities on behalf of the United States in the improvement of streets, avenues, and reservations beyond the amount of appropriations previously made by Congress, and from entering into any contract touching such improvements on behalf of the United States, except in pursuance of appropriations made by Congress.

(R.S., § 1813; June 20, 1874, 18 Stat. 116, ch. 337.)

**Prior Codifications.** — 1981 Ed., § 7-625.  
1973 Ed., § 7-620.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-401.17. Contracts for repairs not to exceed 5 years.

Contracts for repairs to pavements may be made for periods not exceeding 5 years, and subject to annual appropriation therefor by Congress.

(July 18, 1888, 25 Stat. 319, ch. 676.)

**Prior Codifications.** — 1981 Ed., § 7-626. 1973 Ed., § 7-621.

### § 9-401.18. Exemptions of abutting property from deposits and assessments.

(a) Notwithstanding any other provision of law, owners of property abutting streets, avenues, roads, or alleys to be improved, or to have curbs, gutters, sewers, or sidewalks constructed thereon, shall not be required to make any deposit, nor shall the abutting property be assessed any part of the cost, for the improvement of the streets, avenues, roads, or alleys, or the construction of curbs, gutters, sewers, or sidewalks if the following conditions exist:

- (1) The abutting property is Class 1 Property; and
- (2) The abutting Class 1 Property, as evidenced by the most current certificates of tax assessment, is less than 80% of the median assessed value of all Class 1 real property in the District as reported by the Mayor; or
- (3) The real property is exempt from the real property tax in the District pursuant to § 47-1002; or
- (4) The Mayor determines that circumstances exist that threaten the health and safety of the public and that improvement of the streets, avenues, roads, and alleys, or the construction of curbs, gutters, sewers, or sidewalks thereon, is necessary to protect the health and safety of the public.

(b) The Mayor has sole discretion in the determination of which streets, avenues, roads, and alleys are to be improved, or which streets, avenues, roads, and alleys are to have curbs, gutters, sewers, or sidewalks constructed thereon where the exemption in subsection (a) of this section would be granted to owners of abutting property.

(Sept. 24, 1994, D.C. Law 10-186, § 2, 41 DCR 5225.)



**Prior Codifications.** — 1981 Ed., § 7-640.  
**Legislative history of Law 10-186.** — Law 10-186, the “Roadway, Alley and Sidewalk Improvement Act of 1994,” was introduced in Council and assigned Bill No. 10-295, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 26, 1994, it was assigned Act No. 10-312 and transmitted to both Houses of Congress for

its review. D.C. Law 10-186 became effective on September 24, 1994.

**Editor’s notes.** — Submission of 5-year plan for improvements: Section 3 of D.C. Law 10-186 provided that within 6 months of September 24, 1994, the Mayor shall submit to the Council a 5-year plan for the improvement of all unimproved streets, avenues, roads, and alleys and the construction of curbs, gutters, sewers, and sidewalks thereon in the District.

## *Subchapter II. Special Assessments.*

### § 9-411.01. Special assessments for curbs and gutters levied.

When any curb or gutter is laid, or any curb and gutter are laid, on any street, avenue, or road in the District of Columbia which said curb shall be constructed of concrete, stone, or other permanent type of construction, or which said gutter shall be constructed of concrete, brick, granite block, asphalt on a concrete base, or other permanent type of construction, one-half of the total cost thereof shall be charged against and become a lien upon the property abutting the side of the street, avenue, or road, or portion thereof, so improved, and assessments therefor shall be levied pro rata according to the linear frontage of said property on the side of the street, avenue, or road, or portion thereof, so improved; provided, however, that no assessments shall be levied hereunder on account of the replacement of any curb or gutter or curb and gutter of a permanent type of construction. When any gutter shall be constructed, in whole or in part, as an integral portion of a permanent type of roadway of any street, avenue, or road, so much of said roadway as lies within 2 feet of the curb line shall be considered as a gutter for the purposes of this subchapter.

(May 25, 1943, 57 Stat. 83, ch. 98, § 1.)

**Prior Codifications.** — 1981 Ed., § 7-614.      1973 Ed., § 7-612a.

### § 9-411.02. Special assessments for curbs and gutters levied — Computation.

The total assessment levied hereunder against any abutting property shall not exceed the number of square feet of area of said property multiplied by 1 per centum of the linear front-foot assessment and shall not exceed 10 per centum of the value of the said abutting property, exclusive of improvements thereon, as assessed for the purpose of taxation at the time of the laying of the curb or gutter or curb and gutter for which said assessment is levied. In computing assessments hereunder against unsubdivided land according to the assessed valuation, there shall be excluded from the computation land lying back more than 100 feet from the street, avenue, or road being improved where

the depth is even, and where the depth is uneven the average depth shall be taken in computation but not to exceed more than 100 feet.

(May 25, 1943, 57 Stat. 83, ch. 98, § 2.)

**Prior Codifications.** — 1981 Ed., § 7-615. 1973 Ed., § 7-612b.

### **§ 9-411.03. Special assessments for curbs and gutters levied — Property abutting 2 or more streets, avenues, or roads.**

When any property abuts 2 or more streets, avenues, or roads, the assessments against said property levied hereunder shall not exceed in the aggregate, together with any legal assessments heretofore levied and paid for paving, curbing, and guttering of or on said streets, avenues, or roads, under the authority of §§ 9-401.09, 9-401.10, relating to assessments for the paving of streets, avenues, and roads, or under § 9-401.04, relating to assessments for laying curbs, or under §§ 9-421.01 to 9-421.04, 3½ cents per square foot of area of said property, or 20 per centum of the value of said property, exclusive of improvements thereon, as assessed for the purpose of taxation at the time of the laying of the curb or gutter or curb and gutter for which said assessment is levied.

(May 25, 1943, 57 Stat. 83, ch. 98, § 3.)

**Prior Codifications.** — 1981 Ed., § 7-616. 1973 Ed., § 7-612c.

### **§ 9-411.04. Roadway improvements and curbs and gutters completed after May 25, 1943.**

No assessments shall be levied under §§ 9-421.01 to 9-421.04, for any roadway improvement completed subsequent to May 25, 1943, but for curbs or gutters, or curbs and gutters, completed subsequent to May 25, 1943, assessments shall be levied against the abutting property in accordance with the provisions of this subchapter.

(May 25, 1943, 57 Stat. 83, ch. 98, § 4.)

**Prior Codifications.** — 1981 Ed., § 7-617. 1973 Ed., § 7-612d.

## *Subchapter III. Assessment When Roadway Paved.*

### **§ 9-421.01. Amount assessed; levied pro rata.**

Whenever under the appropriations made by Congress, the roadway of any street, avenue, or road in the District of Columbia is paved or repaved with sheet asphalt, asphalt block, asphaltic or bituminous concrete (except penetration macadam), cement concrete, granite block, vitrified brick, or other form of permanent pavement, one-half of the total cost thereof shall be charged against and become a lien upon the abutting property, and assessments

therefor shall be levied pro rata according to the linear frontage of said property on the street, avenue, or road, or portion thereof, upon the roadway of which said new pavement or repaving is laid; provided, however, that when such new pavement or repaving is laid solely on 1 side of the centerline of such roadway, the one-half cost thereof shall be assessed, as herein provided, against the property abutting the side of the street, avenue, or road, or portion thereof, so improved.

(Feb. 20, 1931, 46 Stat. 1197, ch. 246, § 1.)

**Cross references.** — Street construction and maintenance, streets with concurrent railroad tracks, allocation of costs, see § 9-1203.07.

**Section references.** — This section is referenced in § 9-411.03, § 9-411.04, § 9-421.02,

§ 9-421.07, § 9-421.09, § 9-421.11, and § 9-421.12.

**Prior Codifications.** — 1981 Ed., § 7-627. 1973 Ed., § 7-622.

## § 9-421.02. Assessment for gutters and curbs.

For the purposes of computing the assessments under this subchapter, the term “roadway” shall be construed to include the gutters and curbs; provided, however, that where any permanent and new construction of curb, or curb and gutter, is laid, and the roadway of the street is not paved or repaved, or is not paved or repaved with a pavement of the character specified in § 9-421.01, the half cost of such curb, or curb and gutter, shall be assessed against the abutting property in the manner provided in this subchapter.

(Feb. 20, 1931, 46 Stat. 1197, ch. 246, § 2.)

**Prior Codifications.** — 1981 Ed., § 7-628. 1973 Ed., § 7-623.

## § 9-421.03. Certain roadway improvements excepted.

There shall be excepted from such assessments the cost of paving the roadway in excess of 40 feet in width where the new pavement or repaving is laid on both sides of the centerline of such roadway; the cost of paving the roadway in excess of 20 feet in width where the new pavement or repaving is laid solely on 1 side of the centerline of such roadway; the cost of paving the roadway space included within the intersection of streets, avenues, and roads, as said intersections are limited by lines normally projected from the building lines of the street, avenue, or road being improved at its point of intersection with the building lines of the intersecting streets, avenues, or roads and also the cost of paving or repaving the space within such roadways for which street railway companies are responsible under their charters or under law, on streets, avenues, or roads where such railways have been or shall be constructed.

(Feb. 20, 1931, 46 Stat. 1197, ch. 246, § 3.)

**Prior Codifications.** — 1981 Ed., § 7-629. 1973 Ed., § 7-624.



**§ 9-421.04. Limitations on assessments; computation.**

The maximum linear front foot assessment levied hereunder shall not exceed \$3.50 per linear front foot. The total assessment levied hereunder against any abutting property shall not exceed the number of square feet of area of said property multiplied by 1 per centum of the linear front-foot assessment, and shall not exceed 20 per centum of the value of the said abutting property, exclusive of improvements thereon, as assessed for the purpose of taxation at the time of the paving or repairing of the street, avenue, or road for which said assessment is levied. In computing assessments hereunder against unsubdivided land by the square foot or according to the assessed valuation, there shall be excluded from the computation land lying back more than 100 feet from the street, avenue, or road being improved where the depth is even; where the depth is uneven, the average depth shall be taken in computation, but not to exceed 100 feet.

(Feb. 20, 1931, 46 Stat. 1197, ch. 246 § 4.)

**Prior Codifications.** — 1981 Ed., § 7-630. 1973 Ed., § 7-625.

**§ 9-421.05. Property exempt where prior assessment paid.**

No property on which a legal assessment has been levied and paid for paving or repaving, curbing or curbing and guttering, on the roadway of any street, avenue, or road, shall be liable for any further assessment under this subchapter on account of the replacement of such pavement, curbing, or curbing and guttering.

(Feb. 20, 1931, 46 Stat. 1198, ch. 246, § 5.)

**Section references.** — This section is referenced in § 9-421.13.

**Prior Codifications.** — 1981 Ed., § 7-631. 1973 Ed., § 7-626.

**§ 9-421.06. Property exempt where prior roadway improvement made at owner's expense.**

No assessments shall be levied for repaving where the original pavement was laid at the whole cost of the owner or owners of the abutting property if the said original pavement was constructed under a permit issued by the District of Columbia and under the supervision and direction of an authorized engineer and inspector of the Department of Transportation of said District, in strict accordance with the then current specifications and design for pavements of the type for which permit was issued; provided, that where curb, or curb and gutter, or a part of the roadway has or have been paved under proper permit, subject to engineering and inspection as above stated, the assessment for paving other parts of the roadway, placing curb, or curb and gutter, when the same is done at public expense, shall be made against property abutting on the highway as provided in this subchapter, credit being given in such assessment for the half cost of the pavement laid by the owner under permit as above, estimated on the basis of the contract rates for such work at the date of the

performance of the assessable work, so that the total cost to the owner for such improvements shall not exceed the amount of assessments which would have been made under this subchapter, had the improvements been all made at public expense.

(Feb. 20, 1931, 46 Stat. 1198, ch. 246, § 6.)

**Section references.** — This section is referenced in § 9-421.13.

**Prior Codifications.** — 1981 Ed., § 7-632. 1973 Ed., § 7-627.

**Transfer of Functions.** — Reorganization Order No. 53 of the Board of Commissioners, dated June 30, 1953, established under the direction and control of the Engineer Commissioner, a Department of Highways, headed by a Director. The Department of Highways was established to perform highway services and operations for the District including the planning, design, engineering, operation, maintenance and repair of highway and bridge facilities. The Order sets out the purposes and organization of the new Department. The Order abolished the previously existing Department of Highways, the Street Division, the

Bridge Division, the Electrical Division, the Trees and Parking Division and the Central Garage and Shops, and transferred all of their functions and positions to the new Department of Highways. Reorganization Order No. 53, as redesignated Organization Order No. 122, dated January 8, 1959, and amended to establish a new Department of Highways and Traffic, headed by a Director. The Order set forth the purpose, organization, and functions of the new Department. The Department of Highways and Traffic was replaced by the Department of Transportation by Reorganization Plan No. 2 of 1975, dated July 24, 1975.

The functions of the Department of Transportation were transferred to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984.

## § 9-421.07. Exemption for resurfacing by heater method.

No assessment shall be levied for the cost of resurfacing asphalt pavements by the heater method — stripping the surface from a rigid type base, and replacing surface thereon — or covering an existing hard surface or macadam pavement or base with bituminous material; provided, that where an entire pavement is removed and replaced with a pavement of the character specified in § 9-421.01, the cost of the latter pavement shall be assessed as provided in this subchapter, if no previous legal assessment has been levied and paid therefor.

(Feb. 20, 1931, 46 Stat. 1198, ch. 246, § 7.)

**Section references.** — This section is referenced in § 9-421.13.

**Prior Codifications.** — 1981 Ed., § 7-633. 1973 Ed., § 7-628.

## § 9-421.08. Property abutting 2 or more streets.

When any property abuts 2 or more streets, avenues, or roads, the assessments against said property levied under this subchapter shall not exceed in the aggregate, together with any legal assessments levied and paid prior to February 20, 1931, for the paving, curbing, or curbing and guttering of or on said streets, avenues, or roads, 3½ cents per square foot of area of said property, or 20 per centum of the value of said property, exclusive of improvements thereon, as assessed for purposes of taxation at the time of the paving or repaving, curbing, or curbing and guttering for which the assessment is levied.

(Feb. 20, 1931, 46 Stat. 1198, ch. 246, § 8.)

**Section references.** — This section is referenced in § 9-421.13.

**Prior Codifications.** — 1981 Ed., § 7-634. 1973 Ed., § 7-629.

### § 9-421.09. Collection; interest; exception to requirement of advertising.

The assessments provided for in §§ 9-421.01 to 9-421.12 shall be made and collected as provided in § 9-401.06, relating to alleys and sidewalks. The rate of interest to be charged upon any assessment, levied under § 9-401.06 relating to alleys and sidewalks, or any instalment thereof, is reduced hereby from 8 per centum per annum to 6 per centum per annum; provided, however, that any instalment of any such assessment not paid within the time provided in § 9-401.06 shall thereafter bear interest at the rate of 12 per centum per annum; and provided further, that the advertisement by publication of the intention of the Mayor of the District of Columbia to perform the work and the formal hearing in respect thereto required by law as to alley and sidewalk improvements shall not be required as to roadway, curbing, and gutter improvements.

(Feb. 20, 1931, 46 Stat. 1198, ch. 246, § 9.)

**Prior Codifications.** — 1981 Ed., § 7-635. 1973 Ed., § 7-630.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-421.10. Protest by property owner.

Any property owner, aggrieved by any assessment levied under this subchapter, may, within 60 days after service of notice of such assessment, file with the Mayor of the District of Columbia a protest in writing against such assessment, accompanied by affidavits if he so desires, and if said Mayor finds that the property of such owner so protesting is not benefited by the improvement for which said assessment is levied, or is benefited less than the amount of such assessment, or is unequally or inequitably assessed with relation to other property abutting such improvement, said Mayor shall abate, reduce, or adjust such assessment in accordance with such finding. In computing the 60 days provided in § 9-401.06, within which such assessment may be paid without interest, there shall be excluded therefrom the time between the date of the filing of any such protest and the date of action thereon by the Mayor.

(Feb. 20, 1931, 46 Stat. 1199, ch. 246, § 10.)

**Prior Codifications.** — 1981 Ed., § 7-636.

1973 Ed., § 7-631.



**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-421.11. Cancellation of prior assessments; reassessments; refunds.

The Mayor of the District of Columbia is directed to cancel all assessments for improvements completed within 3 years prior to February 20, 1931, levied under the authority of this subchapter, relating to assessments for the paving of streets, avenues, and roads, or under § 9-401.04, relating to assessments for laying curbs; and the Mayor is further directed to reassess the cost of such improvements against the abutting property in accordance with the provisions of this subchapter, which assessments shall become a lien upon the abutting property and be collected in the manner provided under this subchapter. Where assessments for such improvements have been paid in whole or in part the Mayor shall refund, within the limits of appropriations by Congress therefor, to the persons paying the same, the excess, if any, of such payments over the amounts of the reassessments levied under §§ 9-421.01 to 9-421.12.

(Feb. 20, 1931, 46 Stat. 1199, ch. 246, § 11.)

**Cross references.** — Real property tax sales, refund of erroneously paid taxes, see § 47-1317.

**Prior Codifications.** — 1981 Ed., § 7-637. 1973 Ed., § 7-632.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### In general.

Where Congress, in authorizing improvement of a particular street in District of Columbia in 1929 and providing for assessments against abutting property owners in accordance with the existing law made finding of benefit to abutting property, the conclusiveness of the finding that benefits would be conferred on abutting landowners was not affected by fact

that "existing law" in 1929 regarding assessments was replaced by Act of 1931 which directed Commissioners of District to cancel all assessments for roadway improvements completed within three years prior to date of approval of the act and to reassess costs of such improvements in accordance with provisions of the new law. Act Feb. 25, 1929, 45 Stat. 1269, 1272; D.C. Code Supp. V.T. 12, §§ 90a-90m.

Philadelphia, B. & W.R.R. v. Hazen, 116 F.2d 543, 1940 U.S. App. LEXIS 2719 (1940).

### § 9-421.12. Assessment when roadway paved — Severability.

Should any provision of this subchapter be decided by the courts to be unconstitutional or invalid, the validity of §§ 9-421.01 to 9-421.12 as a whole or of any part thereof other than the part decided to be unconstitutional shall not be affected.

(Feb. 20, 1931, 46 Stat. 1199, ch. 246, § 12.)

**Prior Codifications.** — 1981 Ed., § 7-638. 1973 Ed., § 7-633.

### § 9-421.13. Applicability to assessments levied prior to 1885.

(a) The provisions of §§ 9-421.05, 9-421.06, and 9-421.07 shall not preclude the levying of assessments hereunder if the improvement for which such prior assessment was levied, or, if the original paving, curbing, or curbing and guttering, laid at the whole cost of the owner, were completed prior to January 1, 1885.

(b) The provision of § 9-421.08, relating to legal assessments heretofore levied, shall not be applicable where said prior assessments were levied for any improvement completed prior to January 1, 1885.

(Feb. 20, 1931, ch. 246, § 14; June 28, 1935, 49 Stat. 430, ch. 331, § 1.)

**Prior Codifications.** — 1981 Ed., § 7-639. 1973 Ed., § 7-634.

## *Subchapter III-A. Sidewalk Installation, Safety, and Accessibility.*

### § 9-425.01. Sidewalk installation requirements.

(a) For road segments that lack sidewalks on both sides of the street, road reconstruction or curb and gutter replacement shall include installation of a sidewalk on at least one side of the street.

(b) For roadways that are missing sidewalks, but are not undergoing major construction, sidewalk installation shall be prioritized for the following areas:

- (1) Missing sidewalks in school areas;
- (2) Routes that provide access to parks and recreational facilities;
- (3) Transit stops;
- (4) Locations where the absence of a sidewalk creates substantial pedestrian safety risks; and

(5) Roadway segments for which residents petitioned to have sidewalks.

(c) The Mayor shall continue to accept and consider sidewalk petition requests from residents.

(Sept. 24, 2010, D.C. Law 18-227, § 2, 57 DCR 6923.)

**Legislative history of Law 18-227.** — Law 18-227, the “Priority Sidewalk Assurance Act of 2010”, was introduced in Council and assigned Bill No. 18-191, which was referred to the Committee on Public Works and Transportation. The Bill was adopted on first and second

readings on June 1, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 7, 2010, it was assigned Act No. 18-471 and transmitted to both Houses of Congress for its review. D.C. Law 18-227 became effective on September 24, 2010.

## § 9-425.02. Notice and design requirements.

(a) The Mayor shall provide notice to affected parties, the affected Advisory Neighborhood Commissions, and the Councilmembers of the affected Wards, prior to designing and constructing new sidewalks. At a minimum, this notice shall include:

(1) A statement of intent to design and construct a new sidewalk no less than 60 days before construction is scheduled, including a 30-day period for public comment on the proposed design;

(2) A statement of how affected parties can comment on the proposed sidewalk, including a statement on how Advisory Neighborhood Commissions can submit resolutions on the potential impact of the proposed sidewalk; and

(3) A construction schedule.

(b) The Mayor shall maintain for public review comments from affected parties received pursuant to subsection (a)(2) of this section and responses thereto.

(c) The Mayor shall design sidewalks in a manner that preserves the health of existing trees wherever possible.

(d) The recommendations of the affected Advisory Neighborhood Commission shall be given great weight, as that term is described in § 1-309.10(d)(3)(A).

(e) Whenever feasible, the Mayor shall consider pervious materials for the design and installation of sidewalks.

(f) For the purposes of this subchapter, the term “affected parties” means residents with property abutting the road segment under consideration.

(Sept. 24, 2010, D.C. Law 18-227, § 3, 57 DCR 6923.)

**Legislative history of Law 18-227.** — For Law 18-227, see notes following § 9-425.01.

## § 9-425.03. Exemptions.

(a) The District Department of Transportation may be exempted from the requirements of this subchapter upon a written determination by the Director of the District Department of Transportation (“Director”) that it is impractical or unnecessary to install a sidewalk because:

(1) The physical site conditions would make it unduly expensive to construct the sidewalk;

(2) The sidewalk would not be used by pedestrians;

(3) The Director certifies that, due to the specific nature or design of the road segment under consideration, pedestrian travel can be safely accommodated without sidewalks, including travel by children and people with disabilities; or



(4) There would be damage to park land by the construction of the sidewalk on park land, or the District would be required to acquire an easement or property interest to establish the sidewalk.

(b) The written determination required in subsection (a) of this section shall be posted on the District Department of Transportation website and made available to the Council and the affected Advisory Neighborhood Commissions.

(Sept. 24, 2010, D.C. Law 18-227, § 4, 57 DCR 6923.)

**Legislative history of Law 18-227.** — For Law 18-227, see notes following § 9-425.01.

### *Subchapter IV. Cutting of Trenches.*

#### PART A.

#### CUTTING TRENCHES IN HIGHWAYS, 1898.

### § 9-431.01. Permit required; exceptions.

It shall be unlawful for any person to make any cut or trench in any highway, reservation, or public space in the District of Columbia, or to disturb or remove any public work or material therein, without a permit so to do from the Mayor of the District of Columbia. The person obtaining such a permit shall abide by all conditions and provisions of the permit; provided, that nothing in this section shall be construed to apply to public buildings of the United States, or to diminish the authority of the officer in charge of public buildings and grounds, or the Architect of the Capitol.

(June 18, 1898, 30 Stat. 477, ch. 467, § 7; Sept. 13, 1978, D.C. Law 2-105, § 2, 25 DCR 1982.)

**Cross references.** — Underground facilities protection, excavation or demolition requirements, see § 34-2705.

**Section references.** — This section is referenced in § 9-431.02 and § 34-2705.

**Prior Codifications.** — 1981 Ed., § 7-620. 1973 Ed., § 7-615.

**Legislative history of Law 2-105.** — Law 2-105, the “Underground Excavation Enforcement Act of 1978,” was introduced in Council and assigned Bill No. 2-246, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on May 30, 1978 and June 13, 1978, respectively. Signed by the Mayor on July 5, 1978, it was assigned Act No. 2-217 and transmitted to both Houses of Congress for its review.

**Change in Government.** — This section originated at a time when local government

powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 9-431.02. **Penalty; prosecution.**

Any person violating any of the provisions of § 9-431.01 shall on conviction thereof in the Superior Court of the District of Columbia be punished by a fine of not less than \$100 nor more than \$1,000; and in default of payment of such fine such person shall be confined in the workhouse of the District of Columbia for a period not exceeding 6 months; and all prosecutions shall be in the Superior Court of the District of Columbia, in the name of the District of Columbia.

(June 18, 1898, 30 Stat. 477, ch. 467, § 8; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); Sept. 13, 1978, D.C. Law 2-105, § 3, 25 DCR 1982.)

**Prior Codifications.** — 1981 Ed., § 7-621.  
1973 Ed., § 7-616.

legislative history of D.C. Law 2-105, see Historical and Statutory Notes following § 9-431.01.

**Legislative history of Law 2-105.** — For

PART B.

CUTTING TRENCHES IN HIGHWAYS, 2000.

§ 9-433.01. **Permit required; exceptions.**

It shall be unlawful for any person to make any cut or trench in any highway, reservation, or public space in the District of Columbia, or to disturb or remove any public work or material therein, without a permit so to do from the Mayor of the District of Columbia. The person obtaining such a permit shall abide by all conditions and provisions of the permit; provided, that nothing in this section shall be construed to apply to public buildings of the United States, or to diminish the authority of the officer in charge of public buildings and grounds, or the Architect of the Capitol.

(Apr. 12, 2000, D.C. Law 13-91, § 202, 47 DCR 520.)

**Section references.** — This section is referenced in § 9-433.02.

**Legislative history of Law 13-91.** — Law 13-91, the "Technical Amendments Act of 1999," was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first

and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

§ 9-433.02. **Penalty; prosecution.**

Any person violating any of the provisions of § 9-433.01 shall on conviction thereof in the Superior Court of the District of Columbia be punished by a fine of not less than \$100 nor more than \$1,000; and in default of payment of such fine such person shall be confined in the workhouse of the District of Columbia for a period not exceeding 6 months; and all prosecutions shall be in the

Superior Court of the District of Columbia, in the name of the District of Columbia.

(Apr. 12, 2000, D.C. Law 13-91, § 203, 47 DCR 520.)

**Legislative history of Law 13-91.** — For Law 13-91, see notes following § 9-433.01.

*Subchapter V. Repealed Provisions.*

**§§ 9-451.01 to 9-451.03. Contracts for repair or construction of streets, avenues, alleys, or sewers — Advertisement; lowest responsible bidder accepted; consent of Mayor required; contracts copied into book; pavement material; contractors' bonds and payments. [Repealed].**

Repealed.

(Feb. 21, 1986, D.C. Law 6-85, § 1103(b), 32 DCR 7396.)

**Prior Codifications.** — 1981 Ed., §§ 7-601 to 7-603.

**Legislative history of Law 6-85.** — Law 6-85, the "District of Columbia Procurement Practices Act of 1985," was introduced in Council and assigned Bill No. 6-191, which was referred to the Committee on Government Op-

erations. The Bill was adopted on first and second readings on November 5, 1985 and November 19, 1985, respectively. Signed by the Mayor on December 3, 1985, it was assigned Act No. 6-110 and transmitted to both Houses of Congress for its review.



CHAPTER 5. STREET LIGHTING.

Sec.

9-501. Rates; maintenance.

9-502. Electric lamps on overhead wires prohibited.

9-503. Failure to provide required illumination; testing facilities.

9-504. Mayor not required to execute contracts for lighting.

9-505. Failure to furnish, erect, maintain, move, or discontinue street lamps.

9-506. Extension of gas mains for maintenance of street lamps.

Sec.

9-507. Mayor to regulate hours of lighting of street lamps.

9-508. Washington Terminal Company to pay for certain street lighting.

9-509. Railroads to pay for certain street lighting.

9-510. Increase in number of street lamps authorized.

§ 9-501. Rates; maintenance.

(a) No more than the following rates shall be paid for lighting avenues, streets, roads, alleys, and public spaces:

(1) For mantle gas lamps of 60 candlepower, \$18.40 per lamp per annum;

(2) For mantle gas lamps of not less than 120 candlepower, \$27 per lamp per annum;

(3) For street designation lamps, using flat-flame burners, consuming not more than two and one-half cubic feet of gas per hour, or 8 candlepower incandescent electric lamps, with posts and lanterns furnished by the District of Columbia, \$10 per lamp per annum;

(4) For 40 candlepower, 50 watt, incandescent electric lamps on overhead wires, \$15 per lamp per annum;

(5) For 40 candlepower, 50 watt, incandescent electric lamps on underground wires, \$19.50 per lamp per annum;

(6) For 60 candlepower, 75 watt, incandescent electric lamps on overhead wires, \$17.50 per lamp per annum;

(7) For 60 candlepower, 75 watt, incandescent electric lamps on underground wires, \$23 per lamp per annum;

(8) For 80 candlepower, 100 watt, incandescent electric lamps on underground wires, \$26 per lamp per annum;

(9) For 100 candlepower, 125 watt, incandescent electric lamps on underground wires, \$27.50 per lamp per annum;

(10) For 150 candlepower, 187 watt, incandescent electric lamps on underground wires, \$36.50 per lamp per annum;

(11) For 200 candlepower, 250 watt, incandescent electric lamps on underground wires, \$46.50 per lamp per annum;

(12) For 4 glower Nernst lamps on underground wires, \$52.50 per lamp per annum;

(13) For six and six-tenths ampere, 528 watt, direct-current, series-inclosed arc lamps, \$80 per lamp per annum;

(14) For 5 ampere, 550 watt, direct-current, multiple-inclosed arc lamps, \$80 per lamp per annum;

(15) For 4 ampere, 320 watt magnetite, or other arc lamps of equal illuminating value acceptable to the Mayor of the District of Columbia, on overhead wires, \$59 per lamp per annum;

(16) For 4 ampere, 320 watt magnetite, or other arc lamps of equal illuminating value acceptable to the Mayor of the District of Columbia, on underground wires, \$72.50 per lamp per annum;

(17) For six and six-tenths ampere, 500 watt magnetite, or other arc lamps of equal illuminating value acceptable to the Mayor of the District of Columbia, on overhead wires, \$84 per lamp per annum;

(18) For six and six-tenths ampere, 500 watt magnetite, or other arc lamps of equal illuminating value acceptable to the Mayor of the District of Columbia, on underground wires, \$97.50 per lamp per annum;

(19) For flame arc lamps, 500 watt, General Electric type, or other arc lamps of equal illuminating value acceptable to the Mayor of the District of Columbia, \$150 per lamp per annum.

(b)(1) For the rates named in subsection (a) of this section it shall be the duty of each gaslight company and each electric light company doing business in the District of Columbia to erect and maintain such street lamps as the Mayor of said District may direct; and each such company shall furnish, install, and maintain all posts, lamps, lanterns, burners, wires, cable, conduits, gas pipes, street designations, and fixtures necessary for the respective lamps maintained by each of them, including lighting and extinguishing lamps, and repairing, painting, and cleaning.

(2) The cost of each lamppost for incandescent electric lighting furnished by any lighting company under the above rates shall not exceed \$15, except as hereinafter provided, which cost shall include only the lamppost, the globe, the ornamental top, and the street-designation frame and signs. All other fixtures, parts, fittings, lamps, sockets, wires, cables, and appurtenances necessary for the lamps maintained by said lighting company on said posts, including the cost of erection, shall not be included in said cost.

(3) The cost of each lamppost for gaslighting furnished by any lighting company under the above rates shall not exceed \$15, except as hereinafter provided, which cost shall include only the lamppost and the street-designation frame and signs. All other fixtures, parts, fittings, burners, lamps, pipes, and appurtenances necessary for the lamps maintained by said lighting company on said posts, including the cost of erection, shall not be included in said cost.

(4) The cost of each lamppost for arc lighting furnished by any lighting company under the above rates shall not exceed \$50, except as hereinafter provided, which cost shall include only the lamppost, the street-designation frame and signs, and the arm or top from which the lamp is hung. All other fixtures, parts, fittings, lamps, cables, wires, and appurtenances necessary for the lamps maintained by said lighting company on said posts, including the cost of erection, shall not be included in said cost.

(5) Each lamppost and its equipment shall be of a design and quality acceptable to the Mayor of the District of Columbia.

(6) For each such lamppost furnished by a lighting company by direction of the District Mayor which shall cost in excess of \$15 for gas or electric incandescent lamps, or which shall cost in excess of \$50 for electric arc lamps, the company furnishing the same shall receive, in addition to the above rates, 11 per centum per annum on such additional or excess cost.

(c) The Mayor of the District of Columbia is authorized, in his discretion, to purchase or construct from street-lighting appropriations made in the Act of June 26, 1912 (37 Stat. 181), posts, lanterns, street designations, and all necessary fixtures or appurtenances for any of the systems of lighting above named; provided, that whenever the said Mayor shall furnish a lamppost including only the globe, the ornamental top, and the street-designation frame and signs for the electric incandescent lamps, or including only the street-designation frame and signs for gas lamps, or including only the street-designation frame and signs and the arm or top for arc lamps, \$1.65 per lamp per annum for gas or electric incandescent lamps and \$4.40 per lamp per annum for electric arc lamps shall be deducted from the rates above fixed.

(d) The Mayor of the District of Columbia is further authorized, in his discretion, to adopt other forms of electric street lighting than those named, in which event payments under appropriations made in the Act of June 26, 1912 (37 Stat. 181), shall be made for the lighting service rendered at not to exceed \$.03 per kilowatt-hour for current consumed, and, in addition thereto, 11 per centum per annum of the cost to the lighting company of furnishing and installing lamps, posts, street designations, fixtures, and the cable from lamps to the nearest point of current supply, and a fair sum for the cost of maintenance.

(e) When ordered to do so by the said Mayor, lighting companies shall move and readjust any lamps maintained by them at the following rates:

- (1) For each electric arc lamp, \$10;
- (2) For each electric incandescent lamp, \$5;
- (3) For each gas lamp moved not more than 6 feet, \$2.50;
- (4) For each gas lamp moved more than 6 feet, \$4;
- (5) For each gas lamp raised or lowered to new grade, \$1.50.

(f) When ordered by the Mayor to do so, lighting companies in the District of Columbia shall discontinue any public lamps maintained by them without further payment therefor, and shall remove from the streets, at their own expense, all posts, lanterns, and fixtures connected therewith.

(g) The funds received under this section and § 9-502 shall be deposited in the General Fund of the District of Columbia and shall not be accounted for by a separate fund or account within the General Fund of the District of Columbia.

(Mar. 2, 1911, 36 Stat. 1008, ch. 192, § 7; June 26, 1912, 37 Stat. 181, ch. 182, § 7; Sept. 14, 2011, D.C. Law 19-21, § 9096, 58)

**Cross references.** — Bridges, lighting, see § 9-301.

Highway plans, jurisdiction of mayor over roads and bridges, see § 9-101.02.

Street lighting outside city limits, see § 1-305.03.

**Prior Codifications.** — 1981 Ed., § 7-701. 1973 Ed., § 7-701.

**Effect of amendments.** — D.C. Law 19-21 added subsec. (g).

**Legislative history of Law 19-21.** — For

history of Law 19-21, see notes under § 9-111.01.

**Editor's notes.** — Payment for street lighting and traffic signal costs: Section 130(a) of Pub. L. 98-125 provided that payment for street lighting and traffic signal costs shall be made by the Mayor monthly for each calendar month during fiscal year 1984, except for any month covered by a program (1) which provides for such expenses to be borne by the ratepayers of the electric utility involved and (2) for which all



final administrative and judicial determinations have been made. Section 130(b) of Pub. L. 98-125 provided that except for funds set apart exclusively for, or administratively apportioned for, eliminating the cash portion of the General Fund accumulated deficit, appropriations under the District of Columbia Appropriation Act, 1984, shall be available to the Mayor for purposes of § 130(a).

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of

Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-502. Electric lamps on overhead wires prohibited.

No public electric lamp shall be maintained by means of overhead wires within either the city limits of Washington or the existing fire limits of the District of Columbia as existing March 2, 1911.

(Mar. 2, 1911, 36 Stat. 1011, ch. 192, § 8.)

**Section references.** — This section is referenced in § 9-501.

**Prior Codifications.** — 1981 Ed., § 7-702. 1973 Ed., § 7-702.

## § 9-503. Failure to provide required illumination; testing facilities.

Proportionate deductions shall be made from the amounts due lighting companies for failure to furnish the illumination required by law for public lighting in the District of Columbia, and each company shall furnish, at its own expense, when and as required by the Mayor of the District of Columbia, all proper and necessary facilities, testing places, and apparatus at its plant, and such help at points on its mains or circuits as to enable the said Mayor to determine whether the required illumination is being furnished. For each and every lamp which shall be extinguished or not lighted during any portion of the scheduled time of lighting, a pro rata deduction, based upon the period of nonillumination and the price per lamp, shall be made from said amounts.

(Mar. 2, 1911, 36 Stat. 1011, ch. 192, § 8.)

**Prior Codifications.** — 1981 Ed., § 7-703. 1973 Ed., § 7-703.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of

Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to

§ 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-504. Mayor not required to execute contracts for lighting.

The Mayor of the District of Columbia shall not be required to execute contracts for gas and electric lighting.

(Mar. 2, 1911, 36 Stat. 1011, ch. 192, § 8.)

**Prior Codifications.** — 1981 Ed., § 7-704. 1973 Ed., § 7-704.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-505. Failure to furnish, erect, maintain, move, or discontinue street lamps.

Any gaslight company or any electric light company doing business in the District of Columbia, which shall fail or refuse to furnish, erect, maintain, move, or discontinue any street lamp in compliance with the foregoing provisions as the Mayor of the District of Columbia may direct, shall be subject to a penalty of \$25 for each and every day's failure or refusal so to do, to be recovered at law in the name of the District of Columbia in any court of competent jurisdiction.

(Mar. 2, 1911, 36 Stat. 1011, ch. 192, § 8.)

**Section references.** — This section is referenced in § 28-3812.

**Prior Codifications.** — 1981 Ed., § 7-705. 1973 Ed., § 7-705.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-506. Extension of gas mains for maintenance of street lamps.

Each gas company in the District of Columbia shall, at its sole and entire expense, make reasonable extensions of its gas mains whenever the said extensions shall be necessary for maintaining street lamps for the public safety and comfort, and the Council of the District of Columbia shall regulate the location and depth of the said gas mains in the streets, avenues, roads, alleys, and spaces of the District of Columbia.

(Mar. 3, 1893, 27 Stat. 544, ch. 199; May 29, 1928, 45 Stat. 996, ch. 901, § 1.)

**Prior Codifications.** — 1981 Ed., § 7-706.  
1973 Ed., § 7-706.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(171) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-507. Mayor to regulate hours of lighting of street lamps.

The Mayor of the District of Columbia, subject to appropriations therefor, is hereby authorized and empowered to require that all public and other lamps under his control be lighted during such hours as in his judgment will most effectively promote the safety and convenience of the public.

(Mar. 6, 1939, 53 Stat. 511, ch. 7.)

**Prior Codifications.** — 1981 Ed., § 7-707.  
1973 Ed., § 7-707.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-508. Washington Terminal Company to pay for certain street lighting.

The Washington Terminal Company, its successors, or transferees shall pay to the District for the lighting of the streets, avenues, alleys, and grounds over



and under which its right-of-way may cross, as well as for the lighting of those streets, avenues, alleys, and grounds bordering on its right-of-way, under the direction and control of the Mayor of the District of Columbia and in case of default of payment of such bills, actions at law may be maintained by the District of Columbia against said terminal company or its successors, or transferees therefor; provided, that not more than \$85 per annum shall be paid for any electric arc light burning from 15 minutes after sunset to 45 minutes before sunrise, and operated wholly by means of underground wire; and each arc light shall be of not less than 1000 actual candlepower; provided further, that no more than \$18 per annum shall be paid for each gas lamp equipped with a self-regulating flat-flame burner so adjusted as to secure under all ordinary variations of pressure and density a consumption of 5 cubic feet of gas per hour, nor more than \$20.85 per annum for each gas lamp and \$22.80 per annum for each oil lamp equipped with an incandescent mantle burner of not less than 60 candlepower.

(May 26, 1908, 35 Stat. 287, 288, ch. 198.)

**Section references.** — This section is referenced in § 9-509.

**Prior Codifications.** — 1981 Ed., § 7-708. 1973 Ed., § 7-708.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-509. Railroads to pay for certain street lighting.

All railroads other than street railroads shall pay to the District of Columbia for the lighting, under the direction and control of the Mayor of the District of Columbia, of the public roads, streets, avenues, and alleys, for their full width, through which their tracks may be laid, for the length of the street occupied by the said tracks, whether the said tracks be laid above, below, or at grade; as well as for the lighting of the subways and bridges over or under which the tracks of said railroads pass; and in default of payment of such bills, actions at law may be maintained by the District of Columbia against said railroads or their successors, transferees, or lessees therefor; provided, that nothing herein shall be held to repeal § 9-508.

(Mar. 4, 1913, 37 Stat. 953, ch. 150.)

**Cross references.** — Bridges, lighting, see § 9-301.

**Prior Codifications.** — 1981 Ed., § 7-709. 1973 Ed., § 7-709.

**Change in Government.** — This section originated at a time when local government

powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia.

These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-510. Increase in number of street lamps authorized.

The proper authorities are directed to increase from time to time, as the public good may require, the number of street lamps on any of the streets, lanes, alleys, public ways, and grounds, in the City of Washington, and to do any and all things pertaining to the well lighting of the City.

(R.S., D.C., § 233.)

**Prior Codifications.** — 1981 Ed., § 7-710.      1973 Ed., § 7-710.

CHAPTER 6. REMOVAL OF SNOW AND ICE FROM STREETS AND SIDEWALKS.

Sec.

- 9-601. Removal from sidewalks by owner or occupant of abutting property.
- 9-602. Removal from sidewalks adjacent to public property.
- 9-603. Removal from sidewalks adjacent to federal buildings.

Sec.

- 9-604. Temporary use of sand and ashes.
- 9-605. Failure of owner or occupant to remove — Removal by Mayor.
- 9-606. Failure of owner or occupant to remove — Suit to recover cost.
- 9-607. Appropriations.

§ 9-601. Removal from sidewalks by owner or occupant of abutting property.

It shall be the duty of every person, partnership, corporation, joint-stock company, or syndicate in charge or control of any building or lot of land within the fire limits of the District of Columbia, fronting or abutting on a paved sidewalk, whether as owner, tenant, occupant, lessee, or otherwise, within the first 8 hours of daylight after the ceasing to fall of any snow or sleet, to remove and clear away, or cause to be removed and cleared away, such snow or sleet from so much of said sidewalk as is in front of or abuts on said building or lot of land.

(Sept. 16, 1922, 42 Stat. 845, ch. 318, § 1.)

**Prior Codifications.** — 1981 Ed., § 7-901. 1973 Ed., § 7-801.

CASE NOTES

ANALYSIS

Burden of proof.  
Duty of owner or occupant.  
Evidence.  
In general.  
Standing.

**Burden of proof.**

To recover for injuries sustained in sidewalk fall, for alleged negligence in failing to remove ice and snow, against person in control of abutting building, plaintiff is not required to show that formations of ice and snow complained of are entirely unique and that similar ones exist nowhere in city. D.C. Code 1951, §§ 7-801, 7-802, 7-804. *Campbell v. District of Columbia*, 243 F.2d 226, 1957 U.S. App. LEXIS 2917 (C.A.D.C. 1957).

To recover for injuries sustained in sidewalk fall, for alleged negligence in failing to remove ice and snow, against person in control of abutting building, plaintiff is not required to show that formations of ice and snow complained of are entirely unique and that similar ones exist nowhere in city. D.C. Code 1951, §§ 7-801, 7-802, 7-804. *Campbell v. District of Columbia*, 243 F.2d 226, 1957 U.S. App. LEXIS 2917 (C.A.D.C. 1957).

**Duty of owner or occupant.**

In the District of Columbia, any duty which

property owner may have to remove snow and ice from abutting sidewalk is fully served by clearing reasonable portion of sidewalk where fall of snow is such as to make it impracticable to clear entire walk. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

Under the statute making it the duty of person controlling building fronting on sidewalk to remove snow from so much of walk as is in front of building, clearing snow from about half width of sidewalk after heavy snowfall was sufficient. D.C. Code 1940, § 7-801. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

Under the statute making it the duty of person controlling building fronting on sidewalk to remove snow from so much of walk as is in front of building, clearing snow from about half width of sidewalk after heavy snowfall was sufficient. D.C. Code 1940, § 7-801. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

Owner or occupant of real estate, not having charge of the public ways, owes no duty to pedestrians to clear ice and snow which has naturally accumulated on sidewalk in front of his property, unless a statute validly imposes that duty. D.C. Code 1940, §§ 7-801, 7-805.



Radinsky v. Ellis, 167 F.2d 745, 1948 U.S. App. LEXIS 2490 (1948).

A real property owner is under no duty to keep the sidewalk abutting its property clear of snow and ice for the benefit of pedestrians. *Murphy v. Schwankhaus*, 924 A.2d 988, 2007 D.C. App. LEXIS 244 (2007).

Real property owner is under no duty to keep sidewalks abutting its property clear of snow and ice for benefit of pedestrians, except as to invitees; however, real property owner may be found liable if it acts in any manner to increase hazard created by snow and ice accumulated on abutting public sidewalk and such action proximately causes injury. D.C. Code § 7-801. *Reichman v. Franklin Simon Corp.*, 392 A.2d 9, 1978 D.C. App. LEXIS 317 (1978).

### Evidence.

In suit for injuries sustained by pedestrian in fall on snow and ice accumulated on sidewalk running before building control of defendant, competent evidence of conditions wrought by weather in city generally should be received, but trial judge has discretion in fixing limits for such testimony and it may not be said, as a matter of law, that he may not confine such testimony as to particular streets to those within vicinity of scene of accident. D.C. Code 1951, §§ 7-801, 7-802, 7-804. *Campbell v. District of Columbia*, 243 F.2d 226, 1957 U.S. App. LEXIS 2917 (C.A.D.C. 1957).

In suit for injuries sustained by pedestrian in fall on snow and ice accumulated on sidewalk running before building control of defendant, competent evidence of conditions wrought by weather in city generally should be received, but trial judge has discretion in fixing limits for such testimony and it may not be said, as a matter of law, that he may not confine such testimony as to particular streets to those within vicinity of scene of accident. D.C. Code 1951, §§ 7-801, 7-802, 7-804. *Campbell v. District of Columbia*, 243 F.2d 226, 1957 U.S. App. LEXIS 2917 (C.A.D.C. 1957).

### In general.

District of Columbia snow removal statute did not change or add to basic liability of District Government with respect to safe conditions on public streets. D.C. Code 1940, §§ 7-801, 7-802, 7-804, to 7-806. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

Snow removal statute does not purport affirmatively to make property owner liable to respond in damages to a pedestrian who is injured by falling on snow or ice which owner has not removed from abutting sidewalk. D.C. Code 1940, §§ 7-801, 7-805. *Radinsky v. Ellis*, 167 F.2d 745, 1948 U.S. App. LEXIS 2490 (1948).

School boy who slipped on icy sidewalk in front of apartment house could not recover from

apartment house owner for injuries sustained on ground that owner had violated snow removal law. D.C. Code 1940, §§ 7-801, 7-805. *Radinsky v. Ellis*, 167 F.2d 745, 1948 U.S. App. LEXIS 2490 (1948).

Plaza that was privately owned by university, and that was created by closing off section of street, did not qualify as "sidewalk," within meaning of District of Columbia statute requiring that owner of property fronting or abutting on paved "sidewalk" remove snow or sleet within specified period. D.C. Code 1981, § 7-901. *Battle v. George Washington Univ.*, 871 F. Supp. 1459, 1994 U.S. Dist. LEXIS 19149 (1994).

Tenant's actions in removing snow from icy sidewalk in front of apartment building, allegedly attributable to apartment building owner, did not make the sidewalk more treacherous or "increase the hazard," for purposes of personal injury lawsuit brought against owner by pedestrian who slipped and fell on the sidewalk; tenant did not do anything to cause water to collect and freeze on the sidewalk, and there was nothing to indicate whether unshoveled snow over the ice patch would have been deep enough, and thus supplied traction enough, so that a pedestrian who walked over the snowy area with the ice patch underneath would have been less likely to slip than after the shoveling took place. *Murphy v. Schwankhaus*, 924 A.2d 988, 2007 D.C. App. LEXIS 244 (2007).

Although District of Columbia snow removal law does not provide private cause of action, it does give property owners full eight hours of daylight after snow has ceased to fall to remove the snow from the sidewalks in front of their property. D.C. Code 1981, § 7-901. *Croce v. Hall*, 657 A.2d 307, 1995 D.C. App. LEXIS 84 (1995).

Restaurant customer injured after slipping on snow and ice on sidewalk adjacent to restaurant had no private cause of action against operators of restaurant or owners of real property on which restaurant was located, under snow removal statute, though customer was invitee; statute expressly authorized enforcement by corporation counsel. D.C. Code 1981, §§ 7-901 to 7-906. *Albertie v. Louis & Alexander Corp.*, 646 A.2d 1001, 1994 D.C. App. LEXIS 141 (1994).

Where plaintiff left restaurant and waited under a canopy at top of steps which led down to restaurant while her escort was getting his automobile, and then she took several steps toward curb and suddenly lost her footing and fell on public sidewalk on which snow and sleet and rain had very recently accumulated, District of Columbia and restaurant keeper were not liable for the fall on sidewalk which was not shown to be appropriated to exclusive use and benefit of restaurant keeper. D.C. Code 1951,

§§ 7-801, 7-802. *Morris v. Prati*, 163 A.2d 552, 1960 D.C. App. LEXIS 236 (Cr.App. 1960).

**Standing.**

A private individual lacks standing to sue under District of Columbia statute requiring

property owners to keep public sidewalks in front of their premises free of snow; only the District of Columbia government has authority to enforce it. *Murphy v. Schwankhaus*, 924 A.2d 988, 2007 D.C. App. LEXIS 244 (2007).

**§ 9-602. Removal from sidewalks adjacent to public property.**

It shall be the duty of the Mayor of the District of Columbia within the first 8 hours of daylight after the ceasing to fall of any snow or sleet, or after the accumulation of ice on the paved sidewalks within the fire limits of the District of Columbia, in front of or adjacent to all public buildings, public squares, reservations, and open spaces in the said District owned or held by lease by said District, to cause such snow, sleet, and ice to be removed; and also to cause the same to be removed from all crosswalks of improved streets and places of intersection of alleys with paved sidewalks, and also from all paved sidewalks or crosswalks used as public thoroughfares through all public squares, reservations, or open spaces within the fire limits of said District owned or held by lease by the District of Columbia; but in the event of inability to remove such accumulation of snow, sleet, and ice without injury to the sidewalk, by reason of the hardening thereof, it shall be his duty, within the first 8 hours of daylight after the hardening thereof, to make reasonably safe for travel, or cause to be made reasonably safe for travel, by the sprinkling of sand or ashes thereon, such paved sidewalks, crosswalks, and places of intersection of alleys with paved sidewalks, and shall, as soon thereafter as the weather shall permit, thoroughly clean, or cause to be thoroughly cleaned, said sidewalks, crosswalks, and places of intersection of alleys with paved sidewalks.

(Sept. 16, 1922, 42 Stat. 845, ch. 318, § 2.)

**Prior Codifications.** — 1981 Ed., § 7-902. 1973 Ed., § 7-802.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

**CASE NOTES**

**ANALYSIS**

Duty to clear sidewalks.  
Evidence.  
In general.  
Instructions.  
Notice of conditions.

**Duty to clear sidewalks.**

Primary duty of clearing snow and ice from sidewalk along South Building of Department of Agriculture in District of Columbia was on United States, and therefore District of Columbia was not liable for injuries sustained by employee of Department of Agriculture in fall



on icy sidewalk. D.C. Code 1961, §§ 7-802, 7-803. *Daniels-Lumley v. U.S.*, 306 F.2d 769, 1962 U.S. App. LEXIS 4885 (C.A.D.C. 1962).

Under statute requiring Commissioners of the District of Columbia within first eight hours after daylight after ceasing of any fall of snow or sleet to clear sidewalks so as to make them reasonably safe, District does not have to render condition absolutely harmless. D.C. Code 1951, § 7-802. *Campbell v. District of Columbia*, 243 F.2d 226, 1957 U.S. App. LEXIS 2917 (C.A.D.C. 1957).

District of Columbia has primary responsibility for maintaining streets and sidewalks in reasonably safe condition, regardless of who owns the fee in such streets and sidewalks, in absence of special circumstances such as accumulation of snow or ice or improvement of the way in question by the United States. D.C. Code §§ 7-102, 7-802, 7-803, 7-1207, 7-1208. *Conner v. United States*, 309 F. Supp. 446, 1970 U.S. Dist. LEXIS 12987 (D.D.C.1970).

#### **Evidence.**

In action against District of Columbia for injuries sustained by plaintiff in fall on icy sidewalk running in front of building owned or controlled by District, there was sufficient evidence for jury to find that four-inch snow which had fallen on two previous days had been trampled into ice knobs by passing pedestrians at least 24 hours or longer before plaintiff fell and that District which maintained seven-man force in building charged with removing such condition had notice thereof. D.C. Code 1951, §§ 7-801, 7-802, 7-804. *Campbell v. District of Columbia*, 243 F.2d 226, 1957 U.S. App. LEXIS 2917 (C.A.D.C. 1957).

In pedestrian's suit against District of Columbia for injuries sustained when she slipped on ice and snow on sidewalk running in front of building under control of District, in view of fact that pedestrian failed to offer evidence of conditions naturally prevailing on sidewalks anywhere in city at time, she could not successfully complain on appeal of trial court's ruling that such evidence had to relate to radius of one block from locale of accident. D.C. Code 1951, § 7-802. *Campbell v. District of Columbia*, 243 F.2d 226, 1957 U.S. App. LEXIS 2917 (C.A.D.C. 1957).

In action for injuries allegedly sustained in trip and fall on sidewalk, evidence was sufficient to raise jury question as to whether District of Columbia had actual or constructive notice of defective condition of sidewalk. *Conner v. United States*, 309 F. Supp. 446, 1970 U.S. Dist. LEXIS 12987 (D.D.C.1970).

In trip and fall case, question of whether District of Columbia had actual or constructive notice of defective condition of sidewalk was one of fact. *Conner v. United States*, 309 F.

Supp. 446, 1970 U.S. Dist. LEXIS 12987 (D.D.C.1970).

Plaintiff's testimony, in suit against District of Columbia for alleged negligence on its part in failing to remove ice and snow from public sidewalk on which plaintiff slipped, that walks in front of office building where she was employed had been cleared did not constitute the proof of general conditions throughout the city necessary to support plaintiff's claim. *District of Columbia v. Smith*, 297 A.2d 787, 1972 D.C. App. LEXIS 290 (1972).

In absence of showing by plaintiff, in suit against District of Columbia for alleged negligence in failing to remove ice and snow from public sidewalk on which she slipped and was injured and who described snow and ice on the walk as rough and rugged with lumps in it, that ice and snow had been formed into shapes of such size and location as to constitute a danger aggravated over its original mere slipperiness, that condition of sidewalk was unusual in comparison with general conditions naturally prevalent throughout the city and that condition complained of had existed for such time as to give notice to the District and opportunity to correct it, District was not liable for plaintiff's injuries. *District of Columbia v. Smith*, 297 A.2d 787, 1972 D.C. App. LEXIS 290 (1972).

#### **In general.**

Snow Removal Act does not shift responsibility for removal of snow from streets and sidewalks adjacent to federal property from District of Columbia to Director of National Park Service in such sense as to bar a suit against District for personal injuries sustained by pedestrian in fall on slippery sidewalk. D.C. Code 1951, § 7-803. *District of Columbia v. Campbell*, 254 F.2d 357, 1958 U.S. App. LEXIS 4017 (C.A.D.C. 1958).

Essential elements, for recovery against District of Columbia for injuries sustained in fall on icy sidewalk running before buildings under control of District, are that formations which caused or contributed to injuries were of such size or location as to be dangerous and unusual in some way other than original slipperiness caused by weather conditions and that District had actual or constructive notice of particular condition and reasonable period of time in which to remove formations so as to make sidewalk reasonably safe for travel. D.C. Code 1951, §§ 7-801, 7-802, 7-804. *Campbell v. District of Columbia*, 243 F.2d 226, 1957 U.S. App. LEXIS 2917 (C.A.D.C. 1957).

District of Columbia snow removal statute did not change or add to basic liability of District Government with respect to safe conditions on public streets. D.C. Code 1940, §§ 7-801, 7-802, 7-804, to 7-806. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).



In action against District of Columbia for injuries sustained when pedestrian slipped on ice and snow in public street as she stepped from crosswalk to sidewalk, whether there was a ridge of ice three or four inches high at corner where pedestrian fell and whether ridge might have been an obstruction giving rise to liability were questions for a jury. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

Generally, what municipality is required to do to offset dangers created by elements is that which is reasonable under circumstances. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

Generally, absent defect in street itself, municipality cannot be held liable for injuries due to mere slipperiness of snow or ice in its natural state since it cannot cure slipperiness on every bit of sidewalk and street. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

Municipality cannot be held liable for injuries due to snow or ice or occurring just after snow has fallen or ice formed and when city has had no opportunity to correct dangerous conditions created. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

Even though the Snow Removal Act makes it duty of Director of National Park Service to remove snow and ice from sidewalks in front of or around reservation owned by United States and even though the sidewalk on which plaintiff fell was part of public sidewalk surrounding a federally owned reservation on which was situated the Municipal Court buildings, the District of Columbia was nevertheless liable for pedestrian's injuries in fall due to dangerous and unusual sidewalk formations of snow and ice of which District had actual or constructive notice for a reasonable period of time. D.C. Code 1951, §§ 7-801 to 7-803. *Campbell v. District of Columbia*, 153 F.Supp. 730, 1957 U.S. Dist. LEXIS 3289 (D.D.C.1957).

Trial court, which dismissed personal injury suit against District of Columbia by plaintiff who slipped and fell on icy sidewalk in front of and adjacent to United States Department of Labor building on basis that United States had primary responsibility for removing snow under Snow Removal Act, should not have dismissed without considering whether District might be subject to nonstatutory liability. D.C. Code 1981, §§ 7-901 et seq., 7-903. *Taylor v. District of Columbia*, 515 A.2d 1149, 1986 D.C. App. LEXIS 450 (1986).

If snow or ice has been permitted to remain untreated on sidewalk or crosswalk and has formed into humps or ridges or other shapes of such size and location as to constitute a danger, aggravated over its original mere slipperiness, and unusual in comparison with general condi-

tions naturally prevalent throughout the city, and if condition has remained for period sufficient to give rise to constructive notice to municipal authorities, and opportunity for them to remedy it, municipality is liable for injuries of which dangerous condition is proximate cause. *District of Columbia v. Smith*, 297 A.2d 787, 1972 D.C. App. LEXIS 290 (1972).

#### Instructions.

In action against District of Columbia for injuries sustained by pedestrian in fall on icy sidewalk running in front of building controlled by District, court committed prejudicial error in failing to charge substance of pedestrian's requested instruction that, if jury found that icy condition had existed such time that District had actual or constructive notice thereof, liability for negligence could be imposed for failing to treat the previously dangerous condition, though new snow and sleet had aggravated it, though tendered instruction was required to be modified slightly. D.C. Code 1951, § 7-802. *Campbell v. District of Columbia*, 243 F.2d 226, 1957 U.S. App. LEXIS 2917 (C.A.D.C. 1957).

#### Notice of conditions.

If District of Columbia has notice of dangerous icy condition on sidewalk adjacent to building which it maintains, it may be liable for negligence to one injured because of such condition, though new snow and sleet had aggravated the condition. D.C. Code 1951, § 7-802. *Campbell v. District of Columbia*, 243 F.2d 226, 1957 U.S. App. LEXIS 2917 (C.A.D.C. 1957).

With reference to snow and ice, District of Columbia is liable when on notice of dangerous condition of any particular place, it neglects to remedy it. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

In the District of Columbia, if snow or ice has been permitted to remain untreated on sidewalk or crosswalk and has formed into humps or ridges or other shapes of such size and location as to constitute a danger, aggravated over its original mere slipperiness, and unusual in comparison with general conditions naturally prevalent throughout city, and if condition has remained for period sufficient to give rise to constructive notice to municipal authorities, and opportunity for them to remedy it, District is liable for injuries of which dangerous condition is proximate cause. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

If municipality has actual notice of danger or if danger is notorious or so long-continued that municipal authorities are charged with constructive notice of it, municipality is liable for injuries resulting from it. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

## § 9-603. Removal from sidewalks adjacent to federal buildings.

It shall be the duty of the Director of National Park Service within the first 8 hours of daylight after the ceasing to fall of any snow or sleet, or after the accumulation of ice upon the paved sidewalks within the fire limits of the District of Columbia, to remove or cause to be removed from such sidewalks as are in front of or adjacent to all buildings owned or leased by the United States, except the Capitol buildings and grounds and the Library of Congress building, and from all paved sidewalks or crosswalks used as public thoroughfares in front of, around, or through all public squares, reservations, or open spaces within the fire limits of the District of Columbia, owned or leased by the United States, such snow, sleet, and ice; but in the event of inability to remove such accumulation of snow, sleet, and ice, by reason of the hardening thereof, without injury to the sidewalk, it shall be his duty, within the first 8 hours of daylight after the hardening of such snow, sleet, and ice, to make reasonably safe for travel, or cause to be made reasonably safe for travel, by the sprinkling of sand or ashes thereon, such paved sidewalks and crosswalks, and shall, as soon thereafter as the weather shall permit, thoroughly clean said sidewalks and crosswalks.

(Sept. 16, 1922, 42 Stat. 845, ch. 318, § 3.)

**Prior Codifications.** — 1981 Ed., § 7-903. 1973 Ed., § 7-803.

### CASE NOTES

#### In general.

Primary duty of clearing snow and ice from sidewalk along South Building of Department of Agriculture in District of Columbia was on United States, and therefore District of Columbia was not liable for injuries sustained by employee of Department of Agriculture in fall on icy sidewalk. D.C. Code 1961, §§ 7-802, 7-803. *Daniels-Lumley v. U.S.*, 306 F.2d 769, 1962 U.S. App. LEXIS 4885 (C.A.D.C. 1962).

Snow Removal Act does not shift responsibility for removal of snow from streets and sidewalks adjacent to federal property from District of Columbia to Director of National Park Service in such sense as to bar a suit against District for personal injuries sustained by pedestrian in fall on slippery sidewalk. D.C. Code 1951, § 7-803. *District of Columbia v. Campbell*, 254 F.2d 357, 1958 U.S. App. LEXIS 4017 (C.A.D.C. 1958).

District of Columbia has primary responsibility for maintaining streets and sidewalks in reasonably safe condition, regardless of who owns the fee in such streets and sidewalks, in absence of special circumstances such as accumulation of snow or ice or improvement of the way in question by the United States. D.C. Code §§ 7-102, 7-802, 7-803, 7-1207, 7-1208.

*Conner v. United States*, 309 F. Supp. 446, 1970 U.S. Dist. LEXIS 12987 (D.D.C.1970).

Even though the Snow Removal Act makes it duty of Director of National Park Service to remove snow and ice from sidewalks in front of or around reservation owned by United States and even though the sidewalk on which plaintiff fell was part of public sidewalk surrounding a federally owned reservation on which was situated the Municipal Court buildings, the District of Columbia was nevertheless liable for pedestrian's injuries in fall due to dangerous and unusual sidewalk formations of snow and ice of which District had actual or constructive notice for a reasonable period of time. D.C. Code 1951, §§ 7-801 to 7-803. *Campbell v. District of Columbia*, 153 F.Supp. 730, 1957 U.S. Dist. LEXIS 3289 (D.D.C.1957).

Trial court, which dismissed personal injury suit against District of Columbia by plaintiff who slipped and fell on icy sidewalk in front of and adjacent to United States Department of Labor building on basis that United States had primary responsibility for removing snow under Snow Removal Act, should not have dismissed without considering whether District might be subject to nonstatutory liability. D.C. Code 1981, §§ 7-901 et seq., 7-903. *Taylor v.*



District of Columbia, 515 A.2d 1149, 1986 D.C. App. LEXIS 450 (1986).

### § 9-604. Temporary use of sand and ashes.

In case the snow, sleet, and ice cannot be removed from so much of the paved sidewalks within the fire limits of the District of Columbia as front upon or abut such buildings or lots of land as are not owned or held by lease by the District of Columbia or the United States without injury to said sidewalks, because of the hardening thereof, the person, partnership, corporation, joint-stock company, or syndicate in charge or control of such buildings or lots of land, whether as owner, tenant, occupant, lessee, or otherwise, shall, within the first 8 hours of daylight after the same has formed, make reasonably safe for travel, or cause to be made reasonably safe for travel, by the sprinkling of sand or ashes thereon, said sidewalks, and shall, as soon thereafter as the weather shall permit, thoroughly clean said sidewalks.

(Sept. 16, 1922, 42 Stat. 845, ch. 318, § 4.)

**Prior Codifications.** — 1981 Ed., § 7-904. 1973 Ed., § 7-804.

#### CASE NOTES

##### **In general.**

To recover for injuries sustained in sidewalk fall, for alleged negligence in failing to remove ice and snow, against person in control of abutting building, plaintiff is not required to show that formations of ice and snow complained of are entirely unique and that similar ones exist nowhere in city. D.C. Code 1951, §§ 7-801, 7-802, 7-804. *Campbell v. District of Columbia*, 243 F.2d 226, 1957 U.S. App. LEXIS 2917 (C.A.D.C. 1957).

In suit for injuries sustained by pedestrian in

fall on snow and ice accumulated on sidewalk running before building control of defendant, competent evidence of conditions wrought by weather in city generally should be received, but trial judge has discretion in fixing limits for such testimony and it may not be said, as a matter of law, that he may not confine such testimony as to particular streets to those within vicinity of scene of accident. D.C. Code 1951, §§ 7-801, 7-802, 7-804. *Campbell v. District of Columbia*, 243 F.2d 226, 1957 U.S. App. LEXIS 2917 (C.A.D.C. 1957).

### § 9-605. Failure of owner or occupant to remove — Removal by Mayor.

In the event of the failure of any person, partnership, corporation, joint-stock company, or syndicate to remove or cause to be removed such snow or ice from the said sidewalks, or to make the same reasonably safe for travel, or cause the same to be made reasonably safe for travel, as hereinbefore provided, it shall be the duty of the Mayor of the District of Columbia, as soon as practicable after the expiration of the time herein provided for the removal thereof, or for the making of the said sidewalks reasonably safe for travel, to cause the snow and ice in front of such building or lot of land to be removed or to cause the same to be made reasonably safe, as hereinbefore directed to be done by such person, partnership, corporation, joint-stock company, or syndicate in charge or control of such building or lot of land, and the amount of the expense of such removal or such work of making the said sidewalks reasonably safe for travel, shall in each instance be ascertained and certified by the said Mayor to the Corporation Counsel of the District of Columbia.



(Sept. 16, 1922, 42 Stat. 846, ch. 318, § 5.)

**Prior Codifications.** — 1981 Ed., § 7-905. 1973 Ed., § 7-805.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### In general.

Generally, private action for damages against District of Columbia will not lie for failure to perform governmental duty. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

District of Columbia Government is liable for injuries resulting from negligent disregard of defects in streets. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

District of Columbia snow removal statute did not change or add to basic liability of District Government with respect to safe conditions on public streets. D.C. Code 1940, §§ 7-801, 7-802, 7-804, to 7-806. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

District of Columbia Government is not insurer of safety of persons from defects in street, but its liability sounds in negligence imputed from failure to perform a duty. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

In determining liability of District of Columbia Government for defects in streets, usual rules pertaining to exercise of ordinary care and prudence by injured person and proximate

cause apply. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

District of Columbia Government must exercise reasonable care to keep its streets in reasonably safe condition. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

With reference to snow and ice, District of Columbia is liable when on notice of dangerous condition of any particular place, it neglects to remedy it. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

In the District of Columbia, if snow or ice has been permitted to remain untreated on sidewalk or crosswalk and has formed into humps or ridges or other shapes of such size and location as to constitute a danger, aggravated over its original mere slipperiness, and unusual in comparison with general conditions naturally prevalent throughout city, and if condition has remained for period sufficient to give rise to constructive notice to municipal authorities, and opportunity for them to remedy it, District is liable for injuries of which dangerous condition is proximate cause. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

## § 9-606. Failure of owner or occupant to remove — Suit to recover cost.

The Corporation Counsel is hereby directed and authorized to sue for and recover from such person, partnership, corporation, joint-stock company, or syndicate, the amount of such expense in the name of the District of Columbia, together with a penalty not exceeding \$25 for each offense, with costs, and when so recovered the amount shall be deposited to the credit of the District of Columbia.

(Sept. 16, 1922, 42 Stat. 846, ch. 318, § 6.)

**Prior Codifications.** — 1981 Ed., § 7-906. 1973 Ed., § 7-806.

**CASE NOTES**

**In general.**

District of Columbia snow removal statute did not change or add to basic liability of District Government with respect to safe conditions on public streets. D.C. Code 1940, §§ 7-801, 7-802, 7-804, to 7-806. *Smith v. District of Columbia*, 189 F.2d 671, 1951 U.S. App. LEXIS 3214 (C.A.D.C. 1951).

Restaurant customer injured after slipping on snow and ice on sidewalk adjacent to restau-

rant had no private cause of action against operators of restaurant or owners of real property on which restaurant was located, under snow removal statute, though customer was invitee; statute expressly authorized enforcement by corporation counsel. D.C. Code 1981, §§ 7-901 to 7-906. *Albertie v. Louis & Alexander Corp.*, 646 A.2d 1001, 1994 D.C. App. LEXIS 141 (1994).

**§ 9-607. Appropriations.**

Notwithstanding any other provision of law, appropriations for the Department of Transportation and the Department of Environmental Services of the government of the District of Columbia shall be available for purposes of snow and ice removal when so ordered by the Mayor of the District of Columbia.

(Oct. 26, 1973, 87 Stat. 507, Pub. L. 93-140, § 14.)

**Prior Codifications.** — 1981 Ed., § 7-907. 1973 Ed., § 7-807.

**References in text.** — Department of Transportation was substituted for Department of Highways and Traffic, near the beginning of this section, pursuant to Reorganization Plan No. 2 of 1975, dated July 24, 1975.

The functions of the Department of Transportation were transferred to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984.

The functions of the Department of Environmental Services were transferred to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984.

**Change in Government.** — This section

originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CHAPTER 6A. BLOCK PARTIES.

Sec.

9-631. Definitions.

9-632. Block party application and requirements.

Sec.

9-633. Duties of the Department.

9-634. Criteria for review.

## § 9-631. Definitions.

For the purposes of this chapter, the term:

(1) “Block party” means an activity of a recreational or civic nature sponsored by the residents of a neighborhood, for which the residents seek to close a block of a street in their neighborhood and for which there is no admission or entrance fee.

(2) “Department” means the District Department of Transportation.

(Oct. 23, 2012, D.C. Law 19-190, § 2, 59 DCR 10163.)

**Section references.** — This section is referenced in § 47-2862.

**Legislative history of Law 19-190.** — Law 19-190, the “Block Party Act of 2012,” was introduced in Council and assigned Bill No. 19-527. The Bill was adopted on first and sec-

ond readings on June 26, 2012, and July 10, 2012, respectively. Signed by the Mayor on August 9, 2012, it was assigned Act No. 19-445 and transmitted to Congress for its review. D.C. Law 19-190 became effective on Oct. 23, 2012.

## § 9-632. Block party application and requirements.

(a) The Department shall create a block party application and make it available for in-person pickup and through a Transportation Online Permitting System.

(b)(1) A District resident, 21 years or older, may submit a block party application and request a street closing for the purpose of holding a block party. The street closure shall:

- (A) Not be greater than one block;
- (B) Not last longer than 12 hours; and
- (C) End by 10 p.m.

(2) All activity for a block party shall conclude by 10 p.m.

(c) The block party application shall:

- (1) Be completed on the form provided by the Department;
- (2) Identify the street name and cross streets of the block to be closed; and
- (3) Include a list of at least 51% of the residents, owners, or businesses abutting the section of the street requested to be closed who have consented to the block party.

(d) The applicant shall submit a completed block party application to the Department either online or in person.

(Oct. 23, 2012, D.C. Law 19-190, § 3, 59 DCR 10163.)

**Legislative history of Law 19-190.** — See note to § 9-631.



**§ 9-633. Duties of the Department.**

(a) The Department shall be responsible for approving block party applications. No fee shall be charged for the application.

(b) Upon receiving a completed application, the Department shall submit a copy to the Metropolitan Police Department, the Fire and Emergency Medical Services Department, the Homeland Security and Emergency Management Agency, and the Washington Metropolitan Area Transit Authority for comments.

(c) Upon approval of the application, the Department shall prepare the applicant's permit and any parking signs. The approved block party permit shall be made available to the applicant electronically.

(Oct. 23, 2012, D.C. Law 19-190, § 4, 59 DCR 10163.)

**Legislative history of Law 19-190.** — See note to § 9-631.

**§ 9-634. Criteria for review.**

(a) It is the policy of the District to approve block parties.

(b) An application for a block party shall not be denied unless:

- (1) It fails to meet the requirements of this chapter;
- (2) The event would create a significant public safety concern;
- (3) The event would create a significant traffic problem; or
- (4) There is substantial neighborhood opposition to the block party.

(Oct. 23, 2012, D.C. Law 19-190, § 5, 59 DCR 10163.)

**Legislative history of Law 19-190.** — See note to § 9-631.

## SUBTITLE II. AIRPORTS.

## CHAPTER 7. WASHINGTON NATIONAL AIRPORT.

Sec.	Sec.
9-701. Administration of Airport; definitions.	9-705. Penalty.
9-702. Powers and duties of Administrator.	9-706. Deposit of collateral by person charged with violation.
9-703. Lease of space or property.	9-707. Agreements for municipal services.
9-704. Authority to make arrests; Park Police patrol.	

**§ 9-701. Administration of Airport; definitions.**

That for the purposes of this chapter:

(1) "Administrator" means the Administrator of the Federal Aviation Administration.

(2) "Airport" means the Washington National Airport, which shall consist of, and include, the tract of land, together with all structures, improvements, and other facilities located thereon, lying partly in the District of Columbia, and partly in the State of Virginia, particularly described as follows: Commencing at a point of beginning, said point being the intersection of the property line of property owned by the Richmond, Fredericksburg and Potomac Railroad Company, and dredging base line at station 0+18.99 referenced south 6,808.21, west 9,078.02, running in a southeasterly direction on a bearing of south 22°51'18" east a distance of 6,270.91 feet, more or less, to station 62+89.90 of said dredging base line. Thence 13°30' right on a bearing of south 9°21'18" east a distance of 1,332.29 feet, more or less, to station 76+22.19 of said base line. Thence 11°04'19" right on a bearing of south 1°43'01" west a distance of 1,231.20 feet, more or less, to station 88+53.39 of said base line. Thence 12°40'41" right on a bearing of south 14°23'42" west a distance of 2,409.32 feet, more or less, to station 112+62.71 on said base line. Thence 1°15'44.3" right on a bearing of south 15°39'26.3" west a distance of 4,938.38 feet, more or less, to United States Coast and Geodetic Survey Station WATER, referenced south 22,220.86, west 8,395.54. Thence 17°09'25.6" left on a bearing of south 1°29'59.3" east a distance of 85.58 feet, more or less, to a corner of the property line between the United States of America and Smoot Sand and Gravel Corporation. Thence 85°59'59.3" right on a bearing of south 84°30'00" west a distance of 1,516.41 feet, more or less, to a monument located at a corner on the property line of the Richmond, Fredericksburg and Potomac Railroad Company, said monument being referenced south 22,451.75, west 9,902.73. Thence 85°50'06.7" right on a bearing of north 8°09'54" west a distance of 442.68 feet, more or less. Thence 5°00'12" left on a bearing of north 13°10'06" west a distance of 578.64 feet, more or less. Thence 4°57'25" left on a bearing of north 18°07'31" west a distance of 462.94 feet, more or less. Thence 1°34'50" left on a bearing of north 19°42'21" west a distance of 943.56 feet, more or less, to the point of a curve having an angle of 27°52'45" right radius 1,241.15 feet, long chord 597.98 feet, on a bearing of north 5°45'58" west. Thence along the arc of said curve a distance of 603.92 feet, more or less, to the point of tangency of said curve. Thence along a tangent to said curve on a

bearing of north  $8^{\circ}10'24''$  east a distance of 232.33 feet, more or less, to the point of a curve having an angle of  $36^{\circ}59'09''$  left, radius 1,046 feet, long chord 663.56 feet on a bearing of north  $10^{\circ}19'10.5''$  west. Thence along the arc of said curve a distance of 675.22 feet, more or less, to the point of tangency of said curve. Thence along a tangent to said curve on a bearing of north  $28^{\circ}48'45''$  west a distance of 256.75 feet, more or less. Thence  $30^{\circ}33'10''$  left on a bearing of north  $59^{\circ}21'55''$  west a distance of 287.84 feet, more or less. Thence  $40^{\circ}45'20''$  right on a bearing of north  $18^{\circ}36'35''$  west a distance of 1,142.08 feet, more or less. Thence  $5^{\circ}43'29''$  right on a bearing of north  $12^{\circ}53'06''$  west a distance of 118.02 feet, more or less, to the point of a curve having an angle of  $26^{\circ}20'50''$  right, radius 3,665.71 feet, long chord 1,670.85 feet on a bearing of north  $0^{\circ}17'19''$  east. Thence along the arc of said curve a distance of 1,685.66 feet, more or less, to the point of tangency of said curve. Thence along a tangent to said curve on a bearing of north  $13^{\circ}27'44''$  east a distance of 2,002.11 feet, more or less, to the point of a curve having an angle of  $10^{\circ}36'25''$  left, radius 2,864.79 feet, long chord of 529.59 feet on a bearing of north  $8^{\circ}09'31.5''$  east. Thence along the arc of said curve a distance of 530.25 feet, more or less, to the point of tangency of said curve. Thence along a tangent to said curve on a bearing of north  $2^{\circ}51'19''$  east a distance of 124.53 feet, more or less. Thence  $6^{\circ}57'52''$  left on a bearing of north  $4^{\circ}06'33''$  west a distance of 571.33 feet, more or less. Thence  $7^{\circ}22'39''$  left on a bearing of north  $11^{\circ}29'12''$  west a distance of 811.63 feet, more or less. Thence  $8^{\circ}16'52''$  right on a bearing of north  $3^{\circ}12'20''$  east a distance of 70.41 feet, more or less, to the point of a curve having an angle of  $7^{\circ}43'12''$  right, radius 5,479.58 feet, long chord 737.75 feet on a bearing of north  $7^{\circ}03'56''$  east. Thence along the arc of said curve a distance of 738.31 feet, more or less, to the point of tangency of said curve, said point being on the old property line between Mary E. Cullinane and Milton Hopfenmaier property. Thence along said property line on a bearing of north  $75^{\circ}11'50''$  east a distance of 204.72 feet, more or less, to a monument marked U. S. D. 1-N. P. S., reference south 18,419.16, west 10,829.26. Thence along the same bearing of north  $75^{\circ}11'50''$  east a distance of 215 feet, more or less. Thence  $34^{\circ}36'06''$  left on a bearing of north  $40^{\circ}35'44''$  east a distance of 1,509 feet, more or less, to the point of a curve having an angle of  $5^{\circ}45'$  left, radius 7,239.41 feet, long chord of 723.20 feet, on a bearing of north  $37^{\circ}53'14''$  east. Thence along the arc of said curve a distance of 726.51 feet, more or less, to the point of a compound curve having an angle of  $6^{\circ}00'$  left, radius 2,217.01 feet, long chord of 232.06 feet on a bearing of north  $32^{\circ}10'44''$  east. Thence along the arc of said curve a distance of 232.15 feet, more or less, to the point of a compound curve having an angle of  $57^{\circ}01'20''$  left, radius 1,303.74, long chord 1,244.62, on a bearing of north  $0^{\circ}40'04''$  east. Thence along the arc of said curve a distance of 1,297.22 feet, more or less, to the point of a compound curve having an angle of  $7^{\circ}59'54.3''$  left, radius 2,217.01 feet, long chord 309.23 feet on a bearing of north  $31^{\circ}49'33''$  west. Thence along the arc of said curve a distance of 310 feet, more or less, to the intersection of said curve with the property line of the Richmond, Fredericksburg and Potomac Railroad Company and the United States of America. Thence in a northeasterly direction along a bearing of north  $34^{\circ}30'00''$  east a distance of 340 feet, more or less, to the point of beginning;



excepting, however, such portion thereof as the President may, by executive order or orders, prescribe, which portion shall be added to, and administered as part of, the Mount Vernon Memorial Highway, authorized by the Act approved May 23, 1928 (45 Stat. 721), as amended.

(June 29, 1940, 54 Stat. 686, ch. 444, § 1; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85-726, title XIV, § 1402(f).)

**Prior Codifications.** — 1981 Ed., § 7-1101. 1973 Ed., § 7-1301.

**Transfer of Functions.** — The functions of the Administrator of the Federal Aviation Agency were transferred to the Secretary of Transportation by § 6(c)(1) of the Act of October 15, 1966, Pub. L. 89-670. The Federal Aviation Agency was abolished and a new Federal Aviation Administration in the Department of Transportation was created by §§ 3(e)(1) and 9(f) of that Act.

**Editor's notes.** — Metropolitan Washington Airports Authority established: D.C. Law 6-67, effective December 3, 1985, endorsed on behalf of the District government the creation of a regional airport authority to acquire Washington National Airport and Washington Dulles International Airport from the federal government. D.C. Law 6-67 was amended by D.C. Law 7-18, effective July 25, 1987.

D.C. Law 6-67 was amended by D.C. Law 8-179, effective October 2, 1990.

D.C. Law 6-67 was temporarily amended by the District of Columbia Regional Airports Authority Act of 1985 Emergency Amendment Act of 1991 (D.C. Act 9-72, July 24, 1991, 38 DCR 4959) and by § 2 of the District of Columbia Regional Airports Authority Act of 1985 Congressional Recess Emergency Amendment Act of 1992 (D.C. Act 9-275, July 23, 1992, 39 DCR 5849).

D.C. Law 8-179 was temporarily repealed by § 3 of the District of Columbia Regional Airports Authority Act of 1985 Emergency Amend-

ment Act of 1991 (D.C. Act 9-72, July 24, 1991, 38 DCR 4959) and by § 3 of the District of Columbia Regional Airports Authority Act of 1985 Congressional Recess Emergency Amendment Act of 1992 (D.C. Act 9-275, July 23, 1992, 39 DCR 5849).

D.C. Law 6-67 was amended by D.C. Law 9-158, effective September 29, 1992.

Metropolitan Washington Airports Authority established: D.C. Law 6-67 was amended, on a temporary basis, by § 2 of D.C. Law 9-48.

D.C. Law 8-179 was repealed, on a temporary basis, by § 3 of D.C. Law 9-48.

D.C. Law 8-179 was repealed by § 3 of D.C. Law 9-158.

Metropolitan Washington Airports Authority established: D.C. Law 6-67 was amended by D.C. Law 12-8, effective August 1, 1997.

Metropolitan Washington Airports Authority established: D.C. Law 6-67 was amended on a temporary basis by § 2 of D.C. Law 12-199.

Section 4(b) of D.C. Law 12-199 provided that the act shall expire after 225 days of its having taken effect.

D.C. Law 6-67 was temporarily amended by § 2 of the Regional Airports Authority Emergency Amendment Act of 1998 (D.C. Act 12-436, July 31, 1998, 45 DCR 5746), § 2 of the Regional Airports Authority Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-502, November 10, 1998, 45 DCR 8125), and § 2 of the Regional Airports Authority Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-578, January 12, 1999, 46 DCR 964).

## CASE NOTES

### In general.

In order to strike down allegedly overbroad definition of "strike" in Metropolitan Washington Airport Act, overbreadth must not only be real, but substantial as well; marginal overbreadth will not invalidate entire statute, particularly where provision has never been applied to any conduct. Metropolitan Washington Airports Authority Professional Fire Fighters Ass'n Local 3217, Intern. Ass'n of Fire Fighters, 959 F.2d 297 (C.A.D.C. 1992).

Neither carryover of "limitations" from feder-

al-sector bargaining generally nor specific limitation on strike violated Metropolitan Washington Airports Act in connection with transfer of federally owned airports' control to newly created regional entity by means of 50-year lease. 18 U.S.C. § 1331; Federal Aviation Act of 1958, §§ 6005(c)(6)(D), (e), 6008(a), as amended, 49 App.U.S.C. §§ 2454(c)(6)(D), (e), 2457(a); 5 U.S.C. § 702. Metropolitan Washington Airports Authority Professional Fire Fighters Ass'n Local 3217, Intern. Ass'n of Fire Fighters, 959 F.2d 297 (C.A.D.C. 1992).

## § 9-702. Powers and duties of Administrator.

The Administrator shall have control over, and responsibility for, the care, operation, maintenance, and protection of the airport, together with the power to make and amend such rules and regulations as he may deem necessary to the proper exercise thereof.

(June 29, 1940, 54 Stat. 687, ch. 444, § 2.)

**Prior Codifications.** — 1981 Ed., § 7-1102. 1973 Ed., § 7-1302.

### CASE NOTES

#### In general.

Record on appeal from dismissal of complaint of operator of automobile rental service disclosed prima facie showing that action of Civil Aeronautics Administrator and Director of Washington National Airport in prohibiting such operator from delivering driverless automobiles to customers at airport in any case where paper was to be signed or money was to be paid, even if reservation had been made in advance, was arbitrary and capricious and un-

related to proper administration of airport. D.C. Code 1951, § 7-1302. *Friend v. Lee*, 221 F.2d 96, 1955 U.S. App. LEXIS 4676 (C.A.D.C. 1955).

Civil Aeronautics Administrator and Director of Washington National Airport possessed broad powers in relation to automobile and personal traffic at airport, and to use of space. D.C. Code 1951, § 7-1302. *Friend v. Lee*, 221 F.2d 96, 1955 U.S. App. LEXIS 4676 (C.A.D.C. 1955).

## § 9-703. Lease of space or property.

The Administrator is empowered to lease, upon such terms as he may deem proper, space or property within or upon the airport for purposes essential or appropriate to the operation of the airport.

(June 29, 1940, 54 Stat. 687, ch. 444, § 3.)

**Prior Codifications.** — 1981 Ed., § 7-1103. 1973 Ed., § 7-1303.

## § 9-704. Authority to make arrests; Park Police patrol.

(a) The Administrator, and any Federal Aviation Agency employee appointed to protect life and property on the airport, when designated by the Administrator, is hereby authorized and empowered:

(1) To arrest under a warrant within the limits of the airport any person accused of having committed within the boundaries of the airport any offense against the laws of the United States, or against any rule or regulation prescribed pursuant to this chapter;

(2) To arrest without warrant any person committing any such offense within the limits of the airport, in his presence;

(3) To arrest without warrant within the limits of the airport any person whom he has reasonable grounds to believe has committed a felony within the limits of the airport.

(b) Any individual having the power of arrest as provided in subsection (a) of this section may carry firearms or other weapons as the Administrator may direct or by regulation may prescribe.

(c) The United States Park Police may, at the request of the Administrator,

be assigned by the Director of the National Park Service, in his discretion, subject to the supervision and direction of the Secretary of the Interior, to patrol any area of the airport, and any members of the United States Park Police so assigned are hereby authorized and empowered to make arrests within the limits of the airport for the same offenses, and in the same manner and circumstances, as is provided in this section with respect to employees designated by the Administrator.

(June 29, 1940, ch. 444, § 4; as added May 15, 1947, 61 Stat. 94, ch. 62; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85-726, title XIV, § 1402(f).)

**Cross references.** — Arrests without warrant, see § 23-581.

United States Park Police, authority to arrest, see § 5-206.

**Section references.** — This section is referenced in § 9-706.

**Prior Codifications.** — 1981 Ed., § 7-1104.  
1973 Ed., § 7-1304.

### § 9-705. Penalty.

Any person who knowingly and willfully violates any rule or regulation prescribed under this chapter shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$500 or imprisoned not more than 6 months, or both.

(June 29, 1940, ch. 444, § 5; as added May 15, 1947, 61 Stat. 94, ch. 62.)

**Prior Codifications.** — 1981 Ed., § 7-1105. 1973 Ed., § 7-1305.

### § 9-706. Deposit of collateral by person charged with violation.

The officer on duty in command of those employees designated by the Administrator as provided in § 9-704, may accept deposit of collateral from any person charged with the violation of any rule or regulation prescribed under this chapter, for appearance in court or before the appropriate United States Magistrate; and such collateral shall be deposited with the United States Magistrate at Alexandria, Virginia.

(June 29, 1940, ch. 444, § 6; as added May 15, 1947, 61 Stat. 94, ch. 62.)

**Prior Codifications.** — 1981 Ed., § 7-1106. 1973 Ed., § 7-1306.

### § 9-707. Agreements for municipal services.

The Administrator may enter into agreements with the State of Virginia, or with any political subdivision thereof, for such municipal services as the Administrator shall deem necessary to the proper and efficient government of the airport, and he may, from time to time, agree to modifications in any such agreement; provided, however, that where the charge for any such service is established by the laws of the State of Virginia, the Administrator may not pay for such service an amount in excess of the charge so established. There is hereby authorized to be appropriated such sums as may be necessary for the making of payment for services under any such agreement.



(June 29, 1940, ch. 444, § 7; as added May 15, 1947, 61 Stat. 95, ch. 62.)

**Prior Codifications.** — 1981 Ed., § 7-1107. 1973 Ed., § 7-1307.

## CHAPTER 8. DULLES INTERNATIONAL AIRPORT.

Sec.

- 9-801. Construction and operation of Airport authorized.
- 9-802. Selection of site.
- 9-803. Acquisition and construction of facilities.
- 9-804. Maintenance and operation.
- 9-805. Lease of space or property.
- 9-806. Contracts for supplies and services.
- 9-807. Transfers of property by federal agencies.

Sec.

- 9-808. Authority to make arrests; Park Police patrol.
- 9-809. Agreements for municipal services.
- 9-810. Penalty.
- 9-811. Definitions.
- 9-812. Appropriations authorized.
- 9-813. Disposition of money recovered from pool and fountain.

## § 9-801. Construction and operation of Airport authorized.

The Administrator of the Federal Aviation Agency (hereinafter referred to as the "Administrator") is hereby authorized and directed to construct, protect, operate, improve, and maintain within or in the vicinity of the District of Columbia, a public airport (including all buildings and other structures necessary or desirable therefor).

(Sept. 7, 1950, 64 Stat. 770, ch. 905, § 1; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85-726, title XIV, § 1402(g).)

**Prior Codifications.** — 1981 Ed., § 7-1201. 1973 Ed., § 7-1401.

**Transfer of Functions.** — The functions of the Administrator of the Federal Aviation Agency were transferred to the Secretary of Transportation by § 6(c)(1) of the Act of October 15, 1966, Pub. L. 89-670. The Federal Aviation Agency was abolished and a new Federal Aviation Administration in the Department of Transportation was created by §§ 3(e)(1) and 9(f) of that Act.

**Editor's notes.** — Metropolitan Washington Airports Authority established: D.C. Law 6-67, effective December 3, 1985, endorsed on behalf of the District government the creation of a regional airport authority to acquire Washington National Airport and Washington Dulles International Airport from the federal government. D.C. Law 6-67 was amended by D.C. Law 7-18, effective July 25, 1987.

D.C. Law 6-67 was amended by D.C. Law 8-179, effective October 2, 1990.

Metropolitan Washington Airports Authority established: D.C. Law 6-67 was amended, on a temporary basis, by § 2 of D.C. Law 9-48.

Section 4(b) of D.C. Law 9-48 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the District of Columbia Regional Airports Authority Act of 1985 Emergency Amendment Act of 1991, whichever occurs first.

D.C. Law 6-67 was temporarily amended by the District of Columbia Regional Airports Au-

thority Act of 1985 Emergency Amendment Act of 1991 (D.C. Act 9-72, July 24, 1991, 38 DCR 4959) and by § 2 of the District of Columbia Regional Airports Authority Act of 1985 Congressional Recess Emergency Amendment Act of 1992 (D.C. Act 9-275, July 23, 1992, 39 DCR 5849).

D.C. Law 8-179 was temporarily repealed by § 3 of the District of Columbia Regional Airports Authority Act of 1985 Emergency Amendment Act of 1991 (D.C. Act 9-72, July 24, 1991, 38 DCR 4959) and by § 3 of the District of Columbia Regional Airports Authority Act of 1985 Congressional Recess Emergency Amendment Act of 1992 (D.C. Act 9-275, July 23, 1992, 39 DCR 5849).

D.C. Law 6-67 was amended by D.C. Law 9-158, effective September 29, 1992.

D.C. Law 8-179 was repealed, on a temporary basis, by § 3 of D.C. Law 9-48.

D.C. Law 8-179 was repealed by § 3 of D.C. Law 9-158.

Metropolitan Washington Airports Authority established: D.C. Law 6-67 was amended by D.C. Law 12-8, effective August 1, 1997.

Metropolitan Washington Airports Authority established: D.C. Law 6-67 was amended on a temporary basis by § 2 of D.C. Law 12-199.

Section 4(b) of D.C. Law 12-199 provided that the act shall expire after 225 days of its having taken effect.

D.C. Law 6-67 was temporarily amended by § 2 of the Regional Airports Authority Emer-

agency Amendment Act of 1998 (D.C. Act 12-436, July 31, 1998, 45 DCR 5746), § 2 of the Regional Airports Authority Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-502, November 10, 1998, 45 DCR 8125), and

§ 2 of the Regional Airports Authority Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-578, January 12, 1999, 46 DCR 964).

#### CASE NOTES

##### **In general.**

Although Congress has given consent and approval to the formation of the Washington Metropolitan Area Transit Commission in order to insure adequate regulation and improvement of mass transit in the District of Columbia metropolitan area, that general authorization does not impinge on broad power given the

administrator of the Federal Aviation Administration. D.C. Code §§ 1-1410 et seq., 7-1401 et seq., 7-1404, 7-1406; U.S. Const. art. 1, § 10, cl. 3. *Executive Limousine Service, Inc. v. Adams*, 450 F. Supp. 579, 1978 U.S. Dist. LEXIS 17959 (1978), reversed by 628 F.2d 115, 202 U.S. App. D.C. 115, 1980 U.S. App. LEXIS 18950, 15 Av. Cas. (CCH) P18054 (1980).

### § 9-802. Selection of site.

For the purpose of carrying out this chapter, the Administrator is authorized to acquire, by purchase, lease, condemnation, or otherwise (including transfer with or without compensation from federal agencies or the District of Columbia, or any state or political subdivision thereof), such lands and interests in lands and appurtenances thereto, including avigation easements or airspace rights, as may be necessary or desirable for the construction, maintenance, improvement, operation and protection of the airport; provided, that before making commitments for the acquisition of land, or the transfer of any lands, the Administrator shall consult and advise with the National Capital Planning Commission as to the conformity of the proposed location with the Commission's comprehensive plan for the National Capital and its environs, and said Commission shall, upon request, submit a report and recommendations thereon within 30 days; provided further, that the choice of site by the Administrator shall be made only after consultation with the governing body in the county in which the airport is to be located, with respect to the suitability of the site to be selected, and its possible impact on the vicinity.

(Sept. 7, 1950, 64 Stat. 771, ch. 905, § 2; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85-726, title XIV, § 1402(g).)

**Prior Codifications.** — 1981 Ed., § 7-1202. 1973 Ed., § 7-1402.

### § 9-803. Acquisition and construction of facilities.

(a) For the purposes of this chapter, the Administrator is empowered to acquire, by purchase, lease, condemnation, or otherwise (including transfer with or without compensation from federal agencies or the District of Columbia, or any state or political subdivision thereof), rights-of-way or easements for roads, trails, pipelines, power lines, railroad spurs, and other similar facilities necessary or desirable for the construction or proper operation of the airport.

(b) The Administrator is authorized to construct any streets, highways, or roadways (including bridges) as may be necessary to provide access to the



airport from existing streets, highways, or roadways. Upon completion of construction of any street, highway, or roadway within the District of Columbia, such street, highway, or roadway shall be transferred to the District of Columbia without charge and thereafter shall be maintained by the District of Columbia. Upon construction of any street, highway, or roadway within a state or political subdivision thereof, such street, highway, or roadway may be transferred to such state or political subdivision thereof, without charge, on the condition that such street, highway, or roadway thereafter be maintained as a public street, highway, or roadway by such state or political subdivision thereof.

(Sept. 7, 1950, 64 Stat. 771, ch. 905, § 3; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85-726, title XIV, § 1402(g).)

**Prior Codifications.** — 1981 Ed., § 7-1203. 1973 Ed., § 7-1403.

#### CASE NOTES

##### **In general.**

Where none of plaintiff's land was sought to be condemned his suit to enjoin taking of property, more than one-half mile distant from his own land, for use as airport, did not present a "justiciable controversy", and his suit was premature. D.C. Code 1951, §§ 7-1401 to 7-1412.

Jasper v. Sawyer, 205 F.2d 700, 1953 U.S. App. LEXIS 2660 (C.A.D.C. 1953).

Suit to enjoin taking of property for federal airport was one against United States. Jasper v. Sawyer, 205 F.2d 700, 1953 U.S. App. LEXIS 2660 (C.A.D.C. 1953).

## § 9-804. Maintenance and operation.

The Administrator shall have control over and responsibility for the care, operation, maintenance, improvements, and protection of the airport, together with the power to make and amend such rules and regulations as he may deem necessary to the proper exercise thereof; provided, that the authority herein contained may be delegated by the Administrator to such official or officials of the Federal Aviation Agency as the Administrator may designate.

(Sept. 7, 1950, 64 Stat. 771, ch. 905, § 4; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85-726, title XIV, § 1402(g).)

**Prior Codifications.** — 1981 Ed., § 7-1204. 1973 Ed., § 7-1404.

#### CASE NOTES

##### **In general.**

Objection by employees that health maintenance organization plans offered by Metropolitan Washington Airports Authority as newly created regional entity which took over control of Washington Area airports from Federal Aviation Administration (FAA) did not have facilities within convenient reach of some employees did not support claim that Secretary of Transportation's certification of fulfillment of conditions of transfer of operation authority was arbitrary or capricious where health package also offered more favorable coinsurance levels

and lower deductibles than those available to federal employees. Metropolitan Washington Airports Authority Professional Fire Fighters Ass'n Local 3217, Intern. Ass'n of Fire Fighters, 959 F.2d 297 (C.A.D.C. 1992).

Fact that Metropolitan Washington Airport Authority reduced airport fire fighters' work week from 72 to 56 hours after taking over lease of Washington airports from Federal Aviation Administration (FAA) did not violate Metropolitan Washington Airport Act's requirement that annual and sick leave be earned at same rate in effect before transfer of operation

took place where salaries were not reduced so that fire fighters were earning as much for working 56 hours as they had for 72; authority retained prior rate in terms of hourly rate even if weekly rate would have decreased. Metropolitan Washington Airports Authority Professional Fire Fighters Ass'n Local 3217, Intern. Ass'n of Fire Fighters, 959 F.2d 297 (C.A.D.C. 1992).

If second Washington Airport Act and Washington Metropolitan Area Transit Commission compact are capable of coexistence, it is duty of courts, absent a clearly expressed congressional intention to contrary, to regard each as effective, and thus statutory scheme must be construed in manner that recognizes roles that both Federal Aviation Administration and Commission are to play in managing transportation at Dulles airport. D.C. Code §§ 7-1401 to 7-1412, 7-1404, 7-1406; Washington Metropolitan Area Transit Regulation Compact, arts. I, II, XII, D.C. Code following section 1-1410. *Executive Limousine Service, Inc. v. Goldschmidt*, 628 F.2d 115, 1980 U.S. App. LEXIS 18950 (C.A.D.C. 1980).

Washington Metropolitan Area Transit Commission had authority to regulate ground transportation of passengers from Dulles airport into city, and it was for Commission to certify number of carriers that it thought would

best serve public convenience and necessity, and although Federal Aviation Administration retained authority to enter into contracts with certified carriers wishing to serve Dulles airport, Administration may not deny contract to Commission-certified carrier. D.C. Code §§ 7-1401 to 7-1412, 7-1404, 7-1406; Washington Metropolitan Area Transit Regulation Compact, arts. I, II, XII, D.C. Code following section 1-1410. *Executive Limousine Service, Inc. v. Goldschmidt*, 628 F.2d 115, 1980 U.S. App. LEXIS 18950 (C.A.D.C. 1980).

Public hearings preceded carrier certification by Washington Metropolitan Area Transit Commission, and if Federal Aviation Administration thought that only one carrier should provide ground transportation to Dulles airport, Administration may appear before Commission to oppose certification of additional carriers, but, under Congress' allocation of regulatory powers, ultimate decision belonged to Commission, and Administration may not render that decision nugatory by refusing to contract with certified carrier. D.C. Code §§ 7-1401 to 7-1412, 7-1404, 7-1406; Washington Metropolitan Area Transit Regulation Compact, arts. I, II, XII, D.C. Code following section 1-1410. *Executive Limousine Service, Inc. v. Goldschmidt*, 628 F.2d 115, 1980 U.S. App. LEXIS 18950 (C.A.D.C. 1980).

## § 9-805. Lease of space or property.

The Administrator is empowered to lease under such conditions as he may deem proper and for such periods as may be desirable space or property within or upon the airport for purposes essential or appropriate to the operation of the airport; provided, that no lease for the use of any hangar or space therein shall extend for a period exceeding 3 years.

(Sept. 7, 1950, 64 Stat. 771, ch. 905, § 5; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85-726, title XIV, § 1402(g).)

**Section references.** — This section is referenced in § 9-806.

**Prior Codifications.** — 1981 Ed., § 7-1205. 1973 Ed., § 7-1405.

## § 9-806. Contracts for supplies and services.

The Administrator is authorized to contract with any person for the furnishing of supplies or performance of services at or upon the airport necessary or desirable for the proper operation of the airport, including but not limited to, contracts for furnishing food and lodging, sale of aviation fuels, furnishing of aircraft repairs and other aeronautical services, and such other services and supplies as may be necessary or desirable for the traveling public. No such contract, not including contracts involving the construction of permanent buildings or facilities, shall extend for a period of longer than 5 years, except the restaurant. The provisions of § 5 of Title 41, United States Code, shall not apply to contracts authorized under this section, to leases authorized



under § 9-805 hereof, or to contracts for architectural or engineering services necessary for the design and planning of the airport.

(Sept. 7, 1950, 64 Stat. 771, ch. 905, § 6; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85-726, title XIV, § 1402(g).)

**Prior Codifications.** — 1981 Ed., § 7-1206. 1973 Ed., § 7-1406.

#### CASE NOTES

##### **In general.**

If second Washington Airport Act and Washington Metropolitan Area Transit Commission compact are capable of coexistence, it is duty of courts, absent a clearly expressed congressional intention to contrary, to regard each as effective, and thus statutory scheme must be construed in manner that recognizes roles that both Federal Aviation Administration and Commission are to play in managing transportation at Dulles airport. D.C. Code §§ 7-1401 to 7-1412, 7-1404, 7-1406; Washington Metropolitan Area Transit Regulation Compact, arts. I, II, XII, D.C. Code following section 1-1410. *Executive Limousine Service, Inc. v. Goldschmidt*, 628 F.2d 115, 1980 U.S. App. LEXIS 18950 (C.A.D.C. 1980).

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### § 9-807. Transfers of property by federal agencies.

Any executive department, independent establishment, or agency of the federal government or the District of Columbia, for the purposes of carrying out this chapter, is authorized to transfer to the Administrator, without compensation, upon his request, any lands, interests in lands (including avigation easements or airspace rights), buildings, property, or equipment under its control and in excess of its own requirements, which the Administrator may consider necessary or desirable for the construction, care, operation, maintenance, improvement, or protection of the airport.

(Sept. 7, 1950, 64 Stat. 772, ch. 905, § 7; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85-726, title XIV, § 1402(g).)

**Prior Codifications.** — 1981 Ed., § 7-1207. 1973 Ed., § 7-1407.

### § 9-808. Authority to make arrests; Park Police patrol.

(a) The Administrator and any Federal Aviation Agency employee appointed



to protect life and property on the airport, when designated by the Administrator, is hereby authorized and empowered:

(1) To arrest under a warrant within the limits of the airport any person accused of having committed within the boundaries of the airport any offense against the laws of the United States, or against any rule or regulation prescribed pursuant to this chapter;

(2) To arrest without warrant any person committing any such offense within the limits of the airport, in his presence; or

(3) To arrest without warrant within the limits of the airport any person whom he has reasonable grounds to believe has committed a felony within the limits of the airport.

(b) Any individual having the power of arrest as provided in subsection (a) of this section may carry firearms or other weapons as the Administrator may direct or by regulation may prescribe.

(c) The United States Park Police may, at the request of the Administrator, be assigned by the Secretary of the Interior, in his discretion, to patrol any area of the airport, and any members of the United States Park Police so assigned are hereby authorized and empowered to make arrests within the limits of the airport for the same offenses and in the same manner and circumstances as are provided in this section with respect to employees designated by the Administrator.

(d) The officer on duty in command of those employees designated by the Administrator as provided in subsection (a) of this section may accept deposit of collateral from any person charged with the violation of any rule or regulation prescribed under this chapter, for appearance in court or before the appropriate United States Magistrate; and such collateral shall be deposited with such United States Magistrate.

(Sept. 7, 1950, 64 Stat. 772, ch. 905, § 8; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85-726, title XIV, § 1402(g).)

**Cross references.** — Arrests without warrant, see § 23-581.

United States Park Police, authority to arrest, see § 5-206.

**Prior Codifications.** — 1981 Ed., § 7-1208. 1973 Ed., § 7-1408.

#### CASE NOTES

**In general.**

Doctrine of immunity of federal officers from civil liability for unlawful arrest did not extend

to police officers of Washington National Airport. *Craig v. Cox*, 171 A.2d 259, 1961 D.C. App. LEXIS 234 (Cr.App. 1961).

### § 9-809. Agreements for municipal services.

The Administrator may enter into agreements with the state, or any political subdivision thereof, in which the airport or any portion thereof is situated, for such state or municipal services as the Administrator shall deem necessary to the proper and efficient operation and protection of the airport, and he may, from time to time, agree to modifications in any such agreement; provided, however, that where the charge for any such service is established by the laws

of the state, the Administrator may not pay for such service in excess of the charge so established.

(Sept. 7, 1950, 64 Stat. 772, ch. 905, § 9; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85-726, title XIV, § 1402(g).)

**Prior Codifications.** — 1981 Ed., § 7-1209. 1973 Ed., § 7-1409.

### § 9-810. Penalty.

Any person who knowingly and willfully violates any rule, regulation, or order issued by the Administrator under this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500 or to imprisonment not exceeding 6 months, or to both such fine and imprisonment.

(Sept. 7, 1950, 64 Stat. 772, ch. 905, § 10; Aug. 23, 1958, 72 Stat. 807, Pub. L. 85-726, title XIV, § 1402(g).)

**Prior Codifications.** — 1981 Ed., § 7-1210. 1973 Ed., § 7-1410.

### § 9-811. Definitions.

Unless the context otherwise requires, the definitions of the words and phrases used in this chapter shall be the definitions assigned to such words and phrases by the Civil Aeronautics Act of 1938, as amended.

(Sept. 7, 1950, 64 Stat. 772, ch. 905, § 11.)

**Prior Codifications.** — 1981 Ed., § 7-1211. 1973 Ed., § 7-1411. **References in text.** — The Civil Aeronautics Act of 1938, as amended, referred to at the end of this section, formerly codified as 49 U.S.C. App. § 1301 et seq., has been repealed.

### § 9-812. Appropriations authorized.

There is hereby authorized to be appropriated such sum as may be necessary for the construction of the airport authorized by this chapter, and such sum shall remain available until expended. There are hereby authorized to be appropriated such other sums as may be necessary to carry out the purposes of this chapter.

(Sept. 7, 1950, 64 Stat. 773, ch. 905, § 12; July 11, 1958, 72 Stat. 354, Pub. L. 85-511, § 1.)

**Prior Codifications.** — 1981 Ed., § 7-1212. 1973 Ed., § 7-1412.

### § 9-813. Disposition of money recovered from pool and fountain.

Money hereafter recovered from the pool and fountain at Dulles International Airport shall not be subject to the Act of June 30, 1949, as amended (40 U.S.C. §§ 484(m), 485(a) [see now 40 U.S.C. §§ 552 and 571]), and may be given to a nonprofit organization which, in the determination of the Adminis-

trator of the Federal Aviation Agency, promotes and provides for the welfare of travelers in air commerce.

(Aug. 30, 1964, 78 Stat. 646, Pub. L. 88-507, title I, § 101.)

**Prior Codifications.** — 1981 Ed., § 7-1213.      1973 Ed., § 7-1413.



## CHAPTER 9. DISTRICT OF COLUMBIA REGIONAL AIRPORTS AUTHORITY.

Sec.	Sec.
9-901. Definitions.	9-914. Bonds as legal investments and security for public deposits.
9-902. Metropolitan Washington Airports Authority created.	9-915. Credit of the District not pledged.
9-903. Authorization of the Authority.	9-916. Trust agreement.
9-904. Membership; terms; officers.	9-917. Revenues.
9-905. Powers and duties of the Authority.	9-918. Trust funds.
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9-913. Marketability of bonds.	9-926. Inconsistent laws inapplicable.

## § 9-901. Definitions.

For the purposes of this chapter, the term:

(1) "Authority facilities" means any or all airport facilities now existing or subsequently acquired or constructed or caused to be constructed by the Authority under this chapter, together with any or all buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, water rights, air rights, franchises, machinery, equipment, furnishings, landscaping, easements, utilities, approaches, roadways and other facilities necessary or desirable in connection with or incidental to the facilities, including the existing Dulles Airport access road and its right-of-way, acquired or constructed by the Authority.

(2) "Authority" means the Metropolitan Washington Airports Authority created by this chapter and by similar enactment by the Commonwealth of Virginia, or if the Authority is abolished, the board, body, or commission or agency succeeding to the principal functions of the Authority or upon whom the powers given by this chapter to the Authority shall be conferred by law.

(3) "Cost" means, as applied to Authority facilities, the cost of acquisition of all lands, structures, rights of way, franchises, easements, and other property rights and interests, the cost of lease payments, the cost of construction, the cost of demolishing, removing, or relocating any buildings or structures on lands acquired, including the cost of acquiring any lands to which the buildings or structures may be moved or relocated, the cost of any extensions, enlargements, additions and improvements, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to and during construction and, if considered advisable by the Authority, for a period not exceeding 1 year after completion of construction, the cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing the Authority facilities, administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions and improvements, the cost of bond insurance and other devices designed to enhance the creditworthiness of the

bonds, and other expenses necessary or incidental to the construction of the Authority facilities, the financing of this construction, and the placing of the Authority facilities in operation. Any obligation or expenses incurred by the District of Columbia ("District") or any agency of the District, with the approval of the Authority, for studies, surveys, borings, preparation of plans and specifications, or other work or materials in connection with the construction of the Authority facilities may be regarded as part of the cost of the Authority facilities and may be reimbursed to the District or the agency out of any funds available for these purposes or the proceeds of the revenue bonds issued for Authority facilities as authorized by this chapter.

(4) "Bonds" or "revenue bonds" means bonds and notes or refunding bonds and notes or bond anticipation notes or other obligations of the Authority issued under provisions of this chapter.

(Dec. 3, 1985, D.C. Law 6-67, § 2, 32 DCR 6093; Jul. 25, 1987, D.C. Law 7-18, § 3(a), 34 DCR 3804.)

**Prior Codifications.** — 1981 Ed., § 7-1251.

## **§ 9-902. Metropolitan Washington Airports Authority created.**

There is created the Metropolitan Washington Airports Authority, ("Authority"), a public body corporate and politic and independent of all other bodies, having the powers and jurisdiction enumerated by this chapter, and other and additional powers as shall be conferred upon it jointly by the legislative authorities of the Commonwealth of Virginia and the District or by either of the jurisdictions and concurred in by the legislative authority of the other jurisdiction.

(Dec. 3, 1985, D.C. Law 6-67, § 3, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1252.

## **§ 9-903. Authorization of the Authority.**

The Authority created by this chapter is authorized, when similarly authorized by the Commonwealth of Virginia, to acquire from the United States of America, by lease or otherwise, the 2 airports known as Washington National Airport and Washington Dulles International Airport and all related properties now administered by Metropolitan Washington Airports, and agency of the Federal Aviation Administration of the United States Department of Transportation, but only with the approval of the Mayor of the District of Columbia. Subject to this mayoral approval, general consent is given to conditions imposed by the Congress of the United States on acquisitions that are not inconsistent with this chapter. The Mayor shall procure the concurrence of the Council of the District of Columbia, by resolution, prior to Mayoral approval of the terms of the compact, lease or other agreements which effectuate the acquisition.

(Dec. 3, 1985, D.C. Law 6-67, § 4, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1253.

## § 9-904. Membership; terms; officers.

(a)(1) The Authority shall consist of 17 members as follows:

- (A) Seven appointed by the Governor of the Commonwealth of Virginia;
- (B) Four appointed by the Mayor of the District of Columbia;
- (C) Three appointed by the Governor of the State of Maryland, and
- (D) Three appointed by the President of the United States.

(2) For the purposes of doing business, 9 members shall constitute a quorum.

(3) Members representing the District of Columbia shall be subject to confirmation by the Council of the District of Columbia.

(4) The failure of a single appointing official to appoint one or more members, as provided in this chapter, shall not impair the Authority's creation when the conditions of this creation have been met.

(b) Members shall not hold elective or appointive public office, shall serve without compensation, and shall reside within the Washington Standard Metropolitan Statistical Area, except that the members appointed by the President of the United States shall be registered voters of states other than Maryland or Virginia or the District of Columbia. Members of the Authority shall be entitled to reimbursement of their expenses incurred in attending the meetings of the Authority or while otherwise engaged in the discharge of their duties.

(c)(1) Appointments to the Authority shall be for a period of 6 years, except that initial appointments shall be made as follows: each jurisdiction shall appoint 1 member for a full 6-year term, a second member for a 4-year term, and in the case of the Commonwealth of Virginia and the District of Columbia, a third member for a 2-year term. The Governor of Virginia shall make the final 2 Virginia initial appointments for one 2-year term and one 4-year term. The President shall make one of his initial appointments pursuant to the Metropolitan Washington Airports Amendments Act of 1996, approved October 9, 1996 (110 Stat. 3213), for a 4-year term. The President shall make subsequent appointments for 6-year terms.

(2) A member of the Authority shall be eligible for reappointment for one additional term. A member may not serve after the expiration of the member's term or terms.

(d) Ten affirmative votes shall be required to approve bond issues and the annual budget of the Authority.

(e) Each member may be removed or suspended from office only for cause and in accordance with the laws of the jurisdiction from which the member is appointed.

(f) The Authority shall elect annually 1 of its members as chairman and another as vice-chairman and shall also elect annually a secretary and a treasurer, or a secretary-treasurer, who may or may not be members of the Authority. The Authority shall prescribe the powers and duties of these



officials. The Authority may also appoint from its staff an assistant secretary and an assistant treasurer, or an assistant secretary-treasurer, who shall, in addition to other duties, discharge such functions of the secretary and the treasurer.

(g) A vacancy among the members shall be filled in the manner in which the original appointment was made. A person appointed to fill a vacancy shall serve for the unexpired term.

(h) Members of the Authority, including any nonvoting members, shall not be personally liable for any act done or action taken in their capacities as members of the Authority, nor shall they be personally liable for any bond, note, or other evidence of indebtedness issued by the Authority.

(Dec. 3, 1985, D.C. Law 6-67, § 5, 32 DCR 6093; Jul. 25, 1987, D.C. Law 7-18, § 3(b), 34 DCR 3804; Aug. 1, 1997, D.C. Law 12-8, § 2(a), 44 DCR 3371; Mar. 5, 2013, D.C. Law 19-222, § 2, 59 DCR 13317.)

**Prior Codifications.** — 1981 Ed., § 7-1254.

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-222 rewrote (a); redesignated (c) as (c)(1) and added (c)(2); substituted “Ten affirmative votes” for “Eight affirmative votes” in (d); and rewrote (g).

**Emergency legislation.** — For temporary amendment of (a) and (c), see § 2 of the Metropolitan Washington Airports Authority Emergency Amendment Act of 2012 (D.C. Act 19-452, October 4, 2012, 59 DCR 11738).

**Legislative history of Law 19-222.** — Law 19-222, the “Metropolitan Washington Airports Authority Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-829. The Bill was adopted on first and second readings on Oct. 2, 2012, and Oct. 16, 2012, respectively. Signed by the Mayor on Nov. 2, 2012, it was assigned Act No. 19-524 and transmitted to Congress for its review. D.C. Law 19-222 became effective on Mar. 5, 2013.

## § 9-905. Powers and duties of the Authority.

(a) For the purposes of acquiring, operating, maintaining, improving, promoting and protecting Washington National Airport and Washington Dulles International Airport together as primary airports for public purposes serving the metropolitan Washington area, the Authority shall have all necessary or convenient powers including, but not limited to, the power:

(1) To adopt and amend by-laws for the regulation of its affairs and the conduct of its business;

(2) To plan, establish, operate, develop, construct, enlarge, maintain, equip, and protect the airports;

(3) To adopt and amend regulations to carry out the powers granted by this section;

(4) To adopt an official seal and alter this seal at its pleasure;

(5) To appoint one or more advisory committees;

(6) To issue revenue bonds of the Authority for any of its purposes, payable solely from the fees and revenues pledged for their payment, and to refund its bonds, all as provided in this chapter;

(7) To borrow money on a short-term basis and issues from time to time its notes therefor payable on terms, conditions, or provisions as it may deem advisable;

(8) To fix, revise, charge, and collect rates, fees, rentals and other charges for the use of the airports;

(9) To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter;

(10) To employ, in its discretion, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and other employees and agents as may be necessary, and to fix their compensation and benefits. Employees of the Authority shall not participate in any strike or assert any right to strike against the Authority, and any employment agreement entered into by the Authority shall contain an explicit prohibition against strikes by the employee or employees covered by such agreement. The Authority shall comply with any act of Congress concerning former employees of the Federal Aviation Administration and Metropolitan Washington Airports;

(11) To sue and be sued in its own name, plead and be impleaded;

(12) To construct or permit the construction of commercial and other facilities consistent with the purposes of this chapter upon the airport property on terms established by the Authority;

(13) To make and enter into all contracts and agreements necessary or desirable to the performance of its duties, the proper operation of the airports and the furnishing of services to the traveling public and airport users, including contracts for normal governmental services on a reimbursable basis with local political subdivisions where the Authority facilities are situated and with the District of Columbia government, and these contracts shall be exclusive or limited when it is necessary to further the public safety, improve the quality of service, avoid duplication of services, or conserve airport property and the airport environment;

(14) To apply for, receive, and accept payments, appropriations, grants, gifts, loans, advances, and other funds, properties, and services as may be transferred or made available to it by the United States government or any other public or private entity or individual;

(14A) To make payments to reimburse the local political subdivisions where the Authority facilities are situated for extraordinary law enforcement costs incurred by such localities; and

(15) To do all acts necessary or convenient to carry out the powers expressly granted in this chapter.

(b) Pursuant to section 6007(b) of the Metropolitan Washington Airports Act of 1986, approved October 30, 1986 (100 Stat. 3341; 49 U.S.C. app. 2456 [see now 49 U.S.C § 49106]), the Authority is established solely to operate and improve both metropolitan Washington airports as primary airports serving the metropolitan Washington area and shall be independent of the Commonwealth of Virginia and its local political subdivisions, the District of Columbia, and the federal government in the performance and exercise of the airport-related duties and powers enumerated in this section. Any conflict between the exercise of these enumerated powers by the Authority and the powers of any local political subdivision within which Authority facilities are situated shall be resolved in favor of the Authority.

(Dec. 3, 1985, D.C. Law 6-67, § 6, 32 DCR 6093; Jul. 25, 1987, D.C. Law 7-18, § 3(c), 34 DCR 3804; Aug. 1, 1997, D.C. Law 12-8, § 2(b), 44 DCR 3371.)

**Prior Codifications.** — 1981 Ed., § 7-1255.

**References in text.** — Section 6007(b) of the Metropolitan Washington Airports Act of 1986 (Public Law 99-500; 100 Stat. 1783-380; Public Law 99-591; 100 Stat. 3341-383), re-

ferred to in subsection (b) of this section, appeared as 49 U.S.C. Appx. § 2456(b) prior to the general revision of Title 49 by Act July 5, 1994, P.L. 103-272, 108 Stat. 745. For present law, see 49 U.S.C. § 49106.

## § 9-906. Authority rules and regulations.

(a) The Authority shall have power to adopt, amend, and repeal rules and regulations pertaining to the use, maintenance and operation of its facilities and governing the conduct of persons and organizations using its facilities.

(b) Unless the Authority shall by unanimous vote of all members present determine that an emergency exists, the Authority shall, before the adoption of any rule or regulation or alteration, amendment or modification:

(1) Make the rule, regulation, alteration, amendment, or modification in convenient form available for public inspection in the office of the Authority for at least 10 days;

(2) Publish a notice in a newspaper or newspapers of general circulation in the District of Columbia and in the local political subdivisions of the Commonwealth of Virginia where the Authority facilities are located declaring the Authority's intention to consider adopting the rule, regulation, alteration, amendment, or modification and informing the public that the Authority will hold a public hearing at which any person may appear and be heard for or against the adoption of the rule or regulation or the alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least 10 days from the day of the publication; and

(3) Hold the public hearing on the day and at the time specified in the notice or any adjournment of the hearing, and hear persons appearing for or against the rule, regulation, alteration, amendment, or modification.

(c) The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

(d) The Authority's rules and regulations relating to:

(1) Air operations and motor vehicle traffic, including but not limited to, motor vehicle speed limits and the location of and payment for public parking;

(2) Access to and use of Authority facilities including but not limited to solicitation, handbilling, picketing and the conduct of commercial activities; and

(3) Aircraft operation and maintenance, shall have the force and effect of law, as shall any other rule or regulation of the Authority that shall contain a determination by the Authority that it is necessary to accord the same effect of law in the public interest; except, that, with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the traffic engineer or comparable official of the political subdivision in which the rules or regulations are to be enforced. The violation of any rule or regulation of the Authority relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the political subdivisions in which the violation occurred.

(e) The violation of any rule or regulation of the Authority establishing a noise limitation on aircraft that operate at the Authority Facilities shall



subject the violator, in the discretion of the circuit court of any political subdivision where the facility is located to a civil penalty not to exceed \$5,000 for each violation. The penalty shall be paid to the Authority. With consent of the violator or the accused violator of a rule establishing aircraft noise limits, the Authority may provide, in an order issued against the violator or accused violator, for the payment of civil charges in specific sums not to exceed the limit that could be imposed by the court. Such civil charge when paid shall be in lieu of any civil penalty that could be imposed by the Court. Any court proceeding shall be within the exclusive jurisdiction of the circuit court and shall be a civil proceeding at law brought by the Authority.

(f) The violation of any Authority rule or regulation, having the force and effect of law, shall be a Class 1 misdemeanor unless otherwise specified by chapter 598 of the 1985 Acts of Assembly or unless a lesser penalty is set by the Authority in the rule or regulation. The rules of criminal procedure and evidence that apply throughout the Commonwealth of Virginia ("Commonwealth") shall apply to the adjudication of any case involving the violation of any Authority rule or regulation having the force and effect of law.

(g) The courts of the Commonwealth shall take judicial notice of the Authority's regularly adopted rules and regulations. For the convenience of the courts which may regularly hear cases arising under the Authority's rules and regulations, the Authority may certify to the clerk of such court a copy of its rules and regulations. Any such certification, when signed by the chairman of the Metropolitan Washington Airports Authority, shall be accepted as evidence of the facts therein stated.

(h) With respect to the violation of any statute of the Commonwealth, local ordinance, or Authority rule or regulation having the force and effect of law occurring at the Authority Facilities:

(1) The matter shall be within the jurisdiction of the state courts of the political subdivision where the violation occurred; violations occurring at Washington National Airport shall be within the jurisdiction of the courts for Arlington County;

(2) The attorney for the Commonwealth shall have authority to prosecute those offenses in the name of the Commonwealth or local government as appropriate; and the county or city attorney, if otherwise authorized to prosecute offenses in the name of the county or city, shall have authority to prosecute those offenses in the name of the county or city; and

(3) Sheriffs and clerks of the court shall provide those same services and exercise those same powers with respect to Authority Facilities within their jurisdiction as for their political subdivisions.

(Dec. 3, 1985, D.C. Law 6-67, § 7, 32 DCR 6093; Jul. 25, 1987, D.C. Law 7-18, § 3(d), 34 DCR 3804, Oct. 2, 1990, D.C. Law 8-179, § 2, 37 DCR 5037; Sep. 29, 1992, D.C. Law 9-158, § 2, 39 DCR 5688.)

**Prior Codifications.** — 1981 Ed., § 7-1256.

**§ 9-907. Police powers.**

(a) The Authority is authorized to establish and maintain a regular police force and to confer police powers to be exercised with respect to offenses occurring on the Authority Facilities upon its employees meeting the minimum requirements of the Commonwealth of Virginia's Department of Criminal Justice Services.

(b) Such police officers shall have all powers vested in police officers under Chapter 17 of Title 15.2, and Chapter 11 of Title 16.1, Title 18.2, Title 19.2, and Title 46.2 of the Code of Virginia as those titles may be amended from time to time and shall be responsible upon the Authority Facilities and within 300 yards of the Facilities for enforcing the laws of the Commonwealth, the Authority's rules and regulations, and all other applicable ordinances, rules, and regulations.

(c) The police officers may issue summons to appear, or arrest on view or on information without warrant as permitted by law, and conduct before any judicial officer of competent jurisdiction any person violating, upon Authority Facilities, any rule or regulation of the Authority, any ordinance or regulation of any local political subdivision, or any other law of the Commonwealth.

(d) The Department of State Police shall exercise the same powers upon Authority Facilities as elsewhere in the Commonwealth.

(e) The Authority may enter into reciprocal or mutual aid agreements with a local political subdivision in the National Capital Region, as defined in 10 U.S.C. § 2674(f)(2), those counties with a border abutting the area and any municipality therein, any agency of the Commonwealth, the District of Columbia, the State of Maryland, the federal government, or any combination of the foregoing for cooperation in the furnishing of services during a public service event, an emergency, or planned training, including law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and resource support. When responding to a request under such an agreement, Authority employees may go outside Authority facilities, and the Authority and its employees shall have the same immunities from liability as the localities and their employees have in responding under similar circumstances.

(f) The police force of Arlington County shall have concurrent jurisdiction with the police force established herein at Washington National Airport. The Authority shall enter into an agreement with Arlington County regarding the exercise of police authority.

(g) The sheriffs and police forces of Loudoun and Fairfax Counties shall continue to exercise concurrent jurisdiction with the police force established herein over the Authority Facilities situated within their respective counties.

(Dec. 3, 1985, D.C. Law 6-67, § 8, 32 DCR 6093; Jul. 25, 1987, D.C. Law 7-18, § 3(e), 34 DCR 3804; Apr. 13, 1999, D.C. Law 12-225, § 2, 46 DCR 485; Jan. 29, 2008, D.C. Law 17-82, § 2, 54 DCR 11887.)

**Prior Codifications.** — 1981 Ed., § 7-1257.

**Effect of amendments.** — D.C. Law 17-82 rewrote subsec. (e) which had read as follows:

“(e) The Authority may enter into reciprocal or mutual aid agreements with the local political subdivisions in which the Authority Facilities



are situated, any agency of the Commonwealth, or of the federal government, or any combination of the foregoing, for cooperation in the furnishing of police services.”

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of District of Columbia Regional Airports Authority Clarification Temporary Amendment Act of 2007 (D.C. Law 17-35, October 18, 2007, law notification 54 DCR 10705).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of District of Columbia Regional Airports Authority Clarification Emergency Amendment Act of 2007 (D.C. Act 17-60, June 21, 2007, 54 DCR 6605).

For temporary (90 day) amendment of sec-

tion, see § 2 of District of Columbia Regional Airports Authority Clarification Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-153, October 18, 2007, 54 DCR 10911).

**Legislative history of Law 17-82.** — Law 17-82, the “District of Columbia Regional Airports Authority Clarification Amendment Act of 2007”, was introduced in Council and assigned Bill No. 17-236 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on October 23, 2007, and November 6, 2007, respectively. Signed by the Mayor on November 26, 2007, it was assigned Act No. 17-193 and transmitted to both Houses of Congress for its review. D.C. Law 17-82 became effective on January 29, 2008.

## § 9-908. Operation of foreign trade zone.

The Authority may establish, operate, and maintain a foreign trade zone and otherwise expedite and encourage foreign commerce.

(Dec. 3, 1985, D.C. Law 6-67, § 9, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1258.

## § 9-909. Acquisition of property; eminent domain.

(a) The Authority may acquire by purchase, lease, or grant additional lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands as it may consider necessary or convenient for construction and operation of the airports, upon terms and at prices as may be considered by it to reasonable and can be agreed upon between it and the owner.

(b) The District may provide services, donate real or personal property, and make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority facilities. The Authority may agree to assume or reimburse the District for any indebtedness incurred by the District with respect to facilities conveyed by the District to the Authority. With the consent of the Council of the District of Columbia, the agreement may be made subordinate to the Authority’s indebtedness to others.

(c) The Authority is granted full power to exercise the right of eminent domain within the Commonwealth of Virginia in the acquisition of any lands, easements, privileges or other property interests that are necessary for airport and landing field purposes, including the right to acquire, by eminent domain, aviation easements over lands and water outside the boundaries of its airports or landing fields where necessary in the interests of safety for aircraft to provide unobstructed air space for the landing and taking off of aircraft utilizing its airports and landing fields even though the aviation easement may be inconsistent with the continued use of the land, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on the land at the time of the acquisition. Proceedings for the acquisition of lands, easements and privileges by condem-



nation may be instituted and conducted in the name of the Authority in accordance with title 25 of the Code of Virginia.

(Dec. 3, 1985, D.C. Law 6-67, § 10, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1259.

## § 9-910. Revenue bonds.

(a) The Authority may provide by resolution for the issuance, at 1 time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of Authority facilities, including the refunding of federal appropriations not reimbursed to the United States Treasury by the Metropolitan Washington Airports. The principal of and the interest on these bond shall be payable solely from the funds provided for this payment. The bonds of each issue shall be dated, shall mature at times not exceeding 40 years from their dates, as may be determined by the Authority, and may be subject to redemption or repurchase before maturity, at the option of the Authority, at prices and under those terms and conditions may be fixed by the Authority before the issuance of the bonds. The bonds may bear interest payable at times and at rates as determined by the Authority or as determined in the manner as the Authority may provide, including the determination by agents designated by the Authority under guidelines established by it. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached to the bonds, and shall fix the denominations of the bonds and the places of payment of principal and interest, which may be at any bank or trust company within or without the District of Columbia. In case any officer whose signature or a facsimile shall be valid and sufficient for all purposes the same as if the officer had remained in office until delivery. Notwithstanding any other provision of this chapter or any recitals in any bonds issued under the provisions of this section, all bonds shall be considered to be negotiable instruments under the laws of the District. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell bonds in the manner, either at public or negotiated sale, and for the price, as it may determine will best effect the purposes of this section.

(b) The proceeds of the bonds shall be used solely for the payment of the cost of Authority facilities, including improvements, and shall be disbursed in the manner and under the restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than the cost, additional bonds may in like manner be issued to provide the amount of the deficit, and, unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust

agreements securing the bonds, shall be considered to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost, the surplus shall be deposited to the credit of the sinking fund for the bonds.

(c) Before the preparation of definitive bonds, the Authority may, under the same restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that become mutilated or have been destroyed or lost. Bonds may be issued under the provisions of this section without obtaining the consent of any agency of the District and without any other proceedings, conditions or things not specifically required by this section.

(Dec. 3, 1985, D.C. Law 6-67, § 11, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1260.

### **§ 9-911. Refunding bonds.**

The Authority may provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this chapter, including the payment of any redemption premium on the bonds and any interest accrued or to accrue to the date of redemption of the bonds, and if considered advisable by the Authority, for either or both of the following additional purposes: constructing improvements, extensions or enlargement of the Authority facilities in connection with which the bonds to be refunded shall have been issued; and, paying all or any part of the cost of any additional Authority facilities. The issuance of bonds, the maturities, and other details of the issuance, the rights of the holders of the bonds, and the rights, duties and obligations of the Authority in respect to the bonds, shall be governed by the provisions of this chapter insofar as this chapter may be applicable. Revenue refunding bonds issued under this section may be sold or exchanged for outstanding bonds issued under this chapter and, if sold, the proceeds of the bonds may be applied to the purchase, redemption, or payment of outstanding bonds.

(Dec. 3, 1985, D.C. Law 6-67, § 12, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1261.

### **§ 9-912. Pledge of funds.**

All monies received pursuant to the provisions of this chapter, whether as proceeds from the sale of bonds, as revenues, or as grants, appropriations, or other funds provided by federal, state, or local governments, may be pledged to the payment of bonds issued by the Authority and, if so pledged, shall be considered to be trust funds to be held and applied solely as provided in this chapter.

(Dec. 3, 1985, D.C. Law 6-67, § 13, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1262.

### § 9-913. Marketability of bonds.

The Authority may exercise all or any party or combination of the powers granted by this chapter, including the power: To make covenants other than and in addition to the covenants expressly authorized, of like, or different character; to make covenants and to do all acts as may be necessary, convenient, or desirable in order to secure its bonds or, in the absolute discretion of the Authority, as will tend to make the bonds more marketable, notwithstanding that the covenants or acts may not be enumerated in this chapter.

(Dec. 3, 1985, D.C. Law 6-67, § 14, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1263.

### § 9-914. Bonds as legal investments and security for public deposits.

Bonds issued by the Authority under the provisions of this chapter are securities in which all public officers and public bodies of the District, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds are securities that may properly and legally be deposited with and received by any municipal officer or any agency of the District for any purpose for which the deposit of bonds or obligations is now or may subsequently be authorized by law.

(Dec. 3, 1985, D.C. Law 6-67, § 15, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1264.

### § 9-915. Credit of the District not pledged.

Revenue bonds issued under the provisions of this chapter shall not constitute a debt of the District nor a pledge of the faith and credit of the District. The bonds shall be payable solely from funds provided for the bonds from revenues. The issuance of revenue bonds under the provisions of this chapter shall not directly, indirectly, or contingently obligate the District to any form of taxation whatever. All revenue bonds shall contain a statement on their face substantially to this effect.

(Dec. 3, 1985, D.C. Law 6-67, § 16, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1265.



**§ 9-916. Trust agreement.**

In the discretion of the Authority any bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the power of a trust company within or without the District. The trust agreement or the resolution providing for the issuance of the bonds may pledge or assign the fees and other revenues to be received, but shall not convey or mortgage the airports or any part of the airports. The trust agreement or resolution providing for the issuance of the bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the airports, the rates or fees or other charges to be charged, and the custody, safeguarding the application of all monies. It shall be lawful for any bank or trust company incorporated under the laws of the District that may act as depositary of the proceeds of bonds or of revenues to furnish indemnifying bonds or to pledge securities as may be required by the Authority. Any trust agreement may set forth the rights and remedies of the bondholders. In addition, any trust agreement or resolution may contain other provisions the Authority considers reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be treated as a part of the cost of the operation of the airports.

(Dec. 3, 1985, D.C. Law 6-67, § 17, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1266.

**§ 9-917. Revenues.**

The Authority may fix, revise, charge, and collect fees or other charges for the use of the airports, contract with any person, partnership, association, or corporation desiring the use of any part of the airports, including the right-of-way adjoining the airports for placing on the airports telephone, telegraph, electric light or power lines, and fix the terms, conditions, rents and fees or other charges for use. Fees or other charges shall be so fixed and adjusted in respect of the aggregate of fees or other charges from the airports as to provide a fund sufficient with other revenues, if any, (1) to pay the cost of maintaining, repairing and operating the airports, (2) to pay the principal of and interest on bonds as they become due and payable, and (3) to create reserves for these purposes. The fees and other charges and all other revenues derived from the airports, except the part as may be necessary to pay the cost of maintenance, repair, and operation and provide reserves as may be provided for in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds, shall be set aside at regular intervals as may be provided in the resolution or the trust agreement in a sinking fund, which is pledged to, and charged with, the payment of the principal of the interest on the bonds as they become due, and the redemption price or the purchase price

of bonds retired by call or purchase as provided in the bonds. The pledge shall be valid and binding from the time when the pledge is made. The fees, other charges, and other revenues or other monies so pledged and subsequently received by the Authority shall immediately be subject to the lien of the pledge without any physical delivery of the lien or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind of tort, contract or otherwise against the Authority, irrespective of whether the parties have notice of the lien. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of monies to the credit of the sinking fund shall be subject to the provisions of resolution authorizing the issuance of the bonds or of the trust agreement. Except as may otherwise be provided in the resolution or the trust agreement, the sinking fund shall be a fund for all these bonds without distinction or priority of 1 over another.

(Dec. 3, 1985, D.C. Law 6-67, § 18, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1267.

### § 9-918. Trust funds.

All proceeds from the sale of bonds and revenues derived from the bonds received pursuant to the provisions of this chapter shall be considered to be trust funds to be held and applied solely as provided in this chapter. The Authority may, in the resolution authorizing the bonds or in the trust agreement securing the bonds, provide for the payment of the proceeds of the sale of the bonds and the revenues of the Authority to a trustee, which may be any trust company or bank having the powers of a trust company within or without the District, which shall act as trustee of the funds, and hold and apply the funds to the purposes of this chapter, subject to any regulations this chapter and the resolution or trust agreement may provide. The trustee may invest and reinvest the funds in securities as may be provided in the resolution authorizing the bonds or in the trust agreement securing the bonds.

(Dec. 3, 1985, D.C. Law 6-67, § 19, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1268.

### § 9-919. Annual audit.

The Authority shall prepare financial statements at the end of each of its fiscal years in conformity with generally accepted accounting principles. These financial statement [sic] shall be examined annually by an independent certified public accountant in accordance with generally accepted auditing standards. Copies of each audit report shall be furnished to the Governor of the Commonwealth of Virginia and to the Mayor of the District not later than 120 days after the end of each fiscal year of the Authority and shall be open to public inspection.

(Dec. 3, 1985, D.C. Law 6-67, § 20, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1269.

## § 9-920. Remedies.

Any holder of bonds issued under the provisions of this chapter or of any of the coupons appertaining to the bonds, and the trustee under any trust agreement, except to the extent the rights given by this chapter, may be restricted by the trust agreement, may either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the District, or granted by this chapter or under the trust agreement or the resolution authorizing the issuance of the bonds and may enforce and compel the performance of all duties required by this chapter or by the agreement or resolution to be performed by the Authority or by any officer or agent of the Authority including the fixing, charging, and collection of fees or other charges.

(Dec. 3, 1985, D.C. Law 6-67, § 21, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1270.

## § 9-921. Exemption from taxation.

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the District for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience, and prosperity, and as the operation and maintenance of the airport by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the airports or any property acquired or used by the Authority under the provisions of this chapter or upon the income therefrom; and the bonds issued under the provisions of this chapter, their transfer and the income from the bonds, including any profit made on the sale of the bonds, shall at all times be free and exempt from taxation by the District.

(Dec. 3, 1985, D.C. Law 6-67, § 22, 32 DCR 6093.)

**Section references.** — This section is referenced in § 47-1803.02.

**Prior Codifications.** — 1981 Ed., § 7-1271.

## § 9-922. Jurisdiction of courts; liability for contracts and torts.

(a) The courts of the Commonwealth of Virginia shall have original jurisdiction over all actions brought by or against the Authority, which courts shall in all cases apply the law of the Commonwealth of Virginia.

(b) The Authority shall be liable for its contracts and for its torts and those of its members, officers, employees, and agents committed in the conduct of any proprietary function, in accordance with the law of the Commonwealth of Virginia but shall not be liable for any torts occurring in the performance of a governmental function. The exclusive remedy for breach of contracts and torts



for which the Authority shall be liable, as provided by this chapter, shall be by suit against the Authority. Nothing in this chapter shall be construed as a waiver by the District or the Commonwealth of Virginia or its political subdivisions of any immunity from suit.

(c) The Authority shall be responsible for all executory contracts entered into by the United States with respect to the former Metropolitan Washington Airports before the date of acquisition of those airports, except that the procedure for disputes resolution contained in any contract shall continue to govern the performance of the contract unless otherwise agreed to by the parties to the contract.

(d) The Authority shall not be responsible for any tort claims arising before the date of transfer.

(Dec. 3, 1985, D.C. Law 6-67, § 23, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1272.

### § 9-923. Procurement exemption.

In light of the multi-jurisdictional nature of the Authority, an exemption is provided to the Authority from all laws and regulations of the District governing public procurement.

(Dec. 3, 1985, D.C. Law 6-67, § 24, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1273.

### § 9-924. Act liberally construed.

This chapter, being necessary for the welfare of the District and its inhabitants, shall be liberally construed to effect its purposes.

(Dec. 3, 1985, D.C. Law 6-67, § 25, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1274.

### § 9-925. Constitutional construction.

The provisions of this chapter are severable and if any of its provisions are held unconstitutional by any court of competent jurisdiction, the decision of that court shall not affect or impair any of the remaining provisions of this chapter. It is declared to be the legislative intent that this chapter would have been adopted had any unconstitutional provisions not been included.

(Dec. 3, 1985, D.C. Law 6-67, § 26, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1275.

### § 9-926. Inconsistent laws inapplicable.

All other general or special laws inconsistent with any provision of this chapter are declared to be inapplicable to the provision of this chapter.

(Dec. 3, 1985, D.C. Law 6-67, § 27, 32 DCR 6093.)

**Prior Codifications.** — 1981 Ed., § 7-1276.

CHAPTER 10. METROPOLITAN WASHINGTON AIRPORTS.

Sec.	Sec.
9-1001. Findings.	9-1007. Federal employees at the Metropolitan Washington Airports.
9-1002. Purpose.	9-1008. Relationship to and effect of other laws.
9-1003. Definitions.	9-1009. Authority to negotiate extension of lease.
9-1004. Lease of Metropolitan Washington Airports.	9-1010. Separability.
9-1005. Capital improvements, construction, and rehabilitation.	9-1011. Nonstop flights.
9-1006. Airports Authority.	

§ 9-1001. Findings.

The Congress finds that:

(1) The 2 federally owned airports in the metropolitan area of Washington, District of Columbia, constitute an important and growing part of the commerce, transportation, and economic patterns of the Commonwealth of Virginia, the District of Columbia, and the surrounding region;

(2) Baltimore/Washington International Airport, owned and operated by the State of Maryland, is an air transportation facility that provides service to the greater Metropolitan Washington region together with the 2 federally owned airports, and timely federal-aid grants to Baltimore/Washington International Airport will provide additional capacity to meet the growing air traffic needs and to compete with other airports on a fair basis;

(3) The federal government has a continuing but limited interest in the operation of the 2 federally owned airports, which serve the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

(4) Operation of the Metropolitan Washington Airports by an independent local agency will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978;

(5) All other major air carrier airports in the United States are operated by public entities at the state, regional, or local level;

(6) Any change in status of the 2 airports must take into account the interest of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the federal government and state governments involved;

(7) In recognition of a perceived limited need for a federal role in the management of these airports and the growing local interest, the Secretary has recommended a transfer of authority from the federal to the local/state level that is consistent with the management of major airports elsewhere in the Nation;

(8) An operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports;

(9) A commission of congressional, state, and local officials and aviation representatives has recommended to the Secretary that transfer of the



federally owned airports be as a unit to an independent authority to be created by the Commonwealth of Virginia and the District of Columbia; and

(10) The federal interest in these airports can be provided through a lease mechanism which provides for local control and operation.

(Oct. 30, 1986, 100 Stat. 3341-376, Pub. L. 99-591, § 6002.)

**Prior Codifications.** — 1981 Ed., § 7-1501.

**Short title.** — Short title: Section 6001 of Pub. L. 99-591 provided that: "This title may be cited as the 'Metropolitan Washington Airports Act of 1986'."

**References in text.** — The "Airline Deregulation Act of 1978," referred to in paragraph (4), is 92 Stat. 1705, Pub. L. 95-504.

**Editor's notes.** — Approval of lease regard-

ing Metropolitan Washington Airports: Pursuant to Resolution 7-36, the "Metropolitan Washington Airports Authority Lease Approval Resolution of 1987," effective April 14, 1987, the Council approved the lease, dated March 2, 1987, between the United States of America and the Metropolitan Washington Airport Authority regarding the Metropolitan Washington Airports.

## § 9-1002. Purpose.

(a) It is therefore declared to be the purpose of the Congress in this chapter to authorize the transfer of operating responsibility under long-term lease of the 2 Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, to a properly constituted independent airport authority created by the Commonwealth of Virginia and the District of Columbia, in order to achieve local control, management, operation, and development of these important transaction assets.

(b) Nothing in this chapter shall be construed to prohibit the Airports Authority and the State of Maryland from entering into an agreement whereby Baltimore/Washington International Airport may be made part of a regional airports authority, subject to terms and conditions agreed to by the Airports Authority, the Secretary, the Commonwealth of Virginia, the District of Columbia, and the State of Maryland.

(Oct. 30, 1986, 100 Stat. 3341-376, Pub. L. 99-591, § 6003.)

**Prior Codifications.** — 1981 Ed., § 7-1502.

**Short title.** — Short title: See Historical and Statutory Notes following § 9-1001.

## § 9-1003. Definitions.

In this chapter:

(1) The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) The term "Airports Authority" means the Metropolitan Washington Airports Authority, a public body to be created by the Commonwealth of Virginia and the District of Columbia consistent with the requirements of § 9-1006.

(3) The term "employees" means all permanent Federal Aviation Administration personnel employed on the date the lease under § 9-1004 takes effect by the Metropolitan Washington Airports, an organization within the Federal Aviation Administration.

(4) The term "Metropolitan Washington Airports" means Washington National Airport and Washington Dulles International Airport.

(5) The term "Secretary" means the Secretary of Transportation.

(6) The term "Washington Dulles International Airport" means the airport constructed under the Act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport on or in the vicinity of the District of Columbia", and includes the Dulles Airport Access Highway and Right-of-way, including the extension between the Interstate Routes I-495 and I-66.

(7) The term "Washington National Airport" means the airport described in the Act entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes".

(Oct. 30, 1986, 100 Stat. 3341-376, Pub. L. 99-591, § 6004.)

**Prior Codifications.** — 1981 Ed., § 7-1503.

**Short title.** — Short title: See Historical and Statutory Notes following § 9-1001.

**References in text.** — "An Act to authorize the construction, protection, operation, and maintenance of a public airport on or in the

vicinity of the District of Columbia," referred to in paragraph (6), is 64 Stat. 770.

"An Act to provide for the administration of the Washington National Airport, and for other purposes," referred to in paragraph (7), is 54 Stat. 686.

## § 9-1004. Lease of Metropolitan Washington Airports.

(a) The Secretary is authorized to enter into a lease of the Metropolitan Washington Airports with the Airports Authority for a 50-year term and to enter into any related agreement necessary for the transfer of authority and property to the Airports Authority. Authority to enter into a lease and agreement under this section shall lapse 2 years after October 30, 1986.

(b)(1) The lease shall provide for the Airports Authority to pay to the general fund of the Treasury annually an amount, computed using the GNP Price Deflator, to equal \$3,000,000 in 1987 dollars. The Secretary and the Airports Authority may renegotiate the level of lease payments attributable to inflation costs every 10 years.

(2)(A) Not later than 1 year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the actual added costs incurred by the Fund due to discontinued service retirement under 5 U.S.C. § 8336(d)(1), of employees who elect not to transfer to the Airports Authority.

(B) Not later than 1 year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the present value of the difference between (i) the future cost of benefits payable from the Fund and due the employees covered under § 9-1007(e) that are attributable to the period of employment following the date the lease takes effect, and (ii) the contributions made by the employees and the Airports Authority under § 9-1007(e). In determining the amount due, the Office of Personnel Manage-

ment shall take into consideration the actual interest such amount can be expected to earn when invested in the Treasury of the United States.

(c) The Airports Authority shall agree, at a minimum, to the following conditions and requirements in the lease:

(1) The Airports Authority shall operate, maintain, protect, promote, and develop the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area.

(2) The real property constituting the Metropolitan Washington Airports shall, during the period of the lease, be used only for airport purposes. For the purposes of this paragraph, the term "airport purposes" means a use of property interests (other than a sale) for aviation business or activities, or for activities necessary or appropriate to serve passengers or cargo in air commerce, or for nonprofit, public use facilities. If the Secretary determines that any portion of the real property leased to the Airports Authority pursuant to this chapter is used for other than airport purposes, the Secretary shall (A) direct that appropriate measures be taken by the Airports Authority to bring the use of such portion of real property in conformity with airport purposes, and (B) retake possession of such portion of real property if the Airports Authority fails to bring the use of such portion into a conforming use within a reasonable period of time, as determined by the Secretary.

(3) The Airports Authority shall be subject to the requirements of 49 U.S.C. § 2210(a) [obsolete; see now 49 U.S.C. § 47107(a)] and the assurances and conditions required of grant recipients under such Act as of the date the lease takes effect. Notwithstanding 49 U.S.C. § 2210(a)(12) [obsolete; see now 49 U.S.C. § 47107(a)], all revenues generated by the Metropolitan Washington Airports shall be expended for the capital and operating costs of such airports.

(4) In acquiring by contract supplies or services for an amount estimated to be in excess of \$200,000, or awarding concession contracts, the Airports Authority shall obtain, to the maximum extent practicable, full and open competition through the use of published competitive procedures. By a vote of 7 members, the Airports Authority may grant exceptions to the requirements of this paragraph.

(5)(A) Except as provided in subparagraph (B) of this paragraph, all regulations of the Metropolitan Washington Airports (14 C.F.R. part 159) shall become regulations of the Airports Authority on the date the lease takes effect and shall remain in effect until modified or revoked by the Airports Authority in accordance with procedures of the Airports Authority.

(B) The following regulations shall cease to be in effect on the date the lease takes effect:

(i) Section 159.59(a) of Title 14, Code of Federal Regulations (relating to new-technology aircraft); and

(ii) Section 159.191 of Title 14, Code of Federal Regulations (relating to violations of Federal Aviation Administration regulations as Federal misdemeanors).

(C) The Airports Authority may not increase or decrease the number of instrument flight rule takeoffs and landings authorized by 14 C.F.R. 93.121 et seq. at Washington National Airport on October 30, 1986 and may not impose



a limitation after the date the lease takes effect on the number of passengers taking off or landing at Washington National Airport.

(6)(A) Except as specified in subparagraph (B) of this paragraph, the Airports Authority shall assume all rights, liabilities, and obligations (tangible and incorporeal, present and executory) of the Metropolitan Washington Airports on the date the lease takes effect, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation relating to such rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. Before the date the lease takes effect, the Secretary shall also assure that the Airports Authority has agreed to cooperate in allowing representatives of the Attorney General and the Secretary adequate access to employees and records when needed for the performance of functions related to the period before the effectiveness of the lease. The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports.

(B) The procedure for disputes resolution contained in any contract entered into on behalf of the United States before the date the lease takes effect shall continue to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the United States as the owner and operator of the Metropolitan Washington Airports, arising before the date the lease takes effect shall be adjudicated as if the lease had not been entered into.

(C) The Federal Aviation Administration shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to § 8147 of Title 5, United States Code, for compensation paid or payable after the date the lease takes effect in accordance with Chapter 81 of Title 5, United States Code, with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

(D) The Airports Authority shall continue all collective bargaining rights enjoyed before the date the lease takes effect by employees of the Metropolitan Washington Airports.

(7) The Comptroller General of the United States may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles, and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at such place or places as the Comptroller General may deem appropriate. All books, accounts, records, reports, files, papers, and property of the Airports Authority shall remain in possession and custody of the Airports Authority.

(8) The Airports Authority shall develop a code of ethics and financial disclosure in order to assure the integrity of all decisions made by its board of directors and employees.

(9) Notwithstanding any other provision of law, no landing fee imposed for operating an aircraft or revenues derived from parking automobiles:

(A) At Washington Dulles International Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(B) At Washington National Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(10) The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee not in excess of the landing fee for aircraft weighing 12,500 pounds.

(11) The Secretary shall include such other terms and conditions applicable to the parties to the lease as are consistent with and carry out the provisions of this chapter.

(d) The Secretary shall submit the lease entered into under this section to Congress. The lease may not take effect before the passage of (1) 30 days, or (2) 10 days in which either House of Congress is in session, whichever occurs later.

(e) The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the terms of the lease. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party.

(Oct. 30, 1986, 100 Stat. 3341-376, Pub. L. 99-591, § 6005.)

**Section references.** — This section is referenced in § 9-1003, § 9-1006, § 9-1007, § 9-1008, and § 9-1009.

**Prior Codifications.** — 1981 Ed., § 7-1504.

**Short title.** — Short title: See Historical and Statutory Notes following § 9-1001.

**References in text.** — Section 511(a) of the Airport and Airway Improvement Act of 1982, referred to in subsection (c)(3) of this section, appeared as 49 U.S.C. Appx. § 2210 prior to the general revision of Title 49 by Act July 5, 1994,

P.L. 103-272, 108 Stat. 745. For present law, see 49 U.S.C. § 47107(a).

**Editor's notes.** — Amendment of lease: Section 7003 of Pub. L. 102-240, 105 Stat. 2202, December 18, 1991, provided for amendment of the lease with the Metropolitan Washington Airports Authority to secure the Airports Authority's consent to the conditions relating to the new Board of Review to be established under the Act.

## § 9-1005. Capital improvements, construction, and rehabilitation.

(a) It is the sense of the Congress that the Airports Authority should:

(1) Pursue the improvement, construction, and rehabilitation of the facilities at Washington Dulles International Airport and Washington National Airport simultaneously; and

(2) To the extent practicable, cause the improvement, construction, and rehabilitation proposed by the Secretary to be completed at both of such Airports within 5 years after the earliest date on which the Airports Authority issues bonds under the authority required by § 9-1006 for any such improvement, construction, or rehabilitation.

(b) The Secretary shall assist the 3 airports serving the Washington, D.C. metropolitan area in planning for operational and capital improvements at those airports and shall accelerate consideration of applications for federal financial assistance by whichever of the 3 airports is most in need of increasing airside capacity.

(Oct. 30, 1986, 100 Stat. 3341-376, Pub. L. 99-591, § 6006.)

**Prior Codifications.** — 1981 Ed., § 7-1505.

**Short title.** — Short title: See Historical and Statutory Notes following § 9-1001.

## § 9-1006. Airports Authority.

(a) The Airports Authority shall be a public body corporate and politic, having the powers and jurisdiction as are conferred upon it jointly by the legislative authority of the Commonwealth of Virginia and the District of Columbia or by either of the jurisdictions and concurred in by the legislative authority of the other jurisdiction, but at a minimum meeting the requirements of this section.

(b) The Airports Authority shall be:

(1) Independent of the Commonwealth of Virginia and its local governments, the District of Columbia, and the federal government; and

(2) A political subdivision constituted solely to operate and improve both Metropolitan Washington Airports as primary airports serving the Metropolitan Washington area.

(c) The Airports Authority shall be authorized:

(1) To acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(2) To issue bonds from time to time in its discretion for public purposes, including the purposes of paying all or any part of the cost of airport improvements, construction, and rehabilitation, and the acquisition of real and personal property, including operating equipment for the airports, which bonds:

(A) Shall not constitute a debt of either jurisdiction or a political subdivision thereof; and

(B) May be secured by the Airports Authority's revenues generally, or exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or in part from the proceeds of such bonds;

(3) To acquire real and personal property by purchase, lease, transfer, or exchange, and to exercise such powers of eminent domain within the Commonwealth of Virginia as are conferred upon it by the Commonwealth of Virginia;

(4) To levy fees or other charges; and

(5) To make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration is so authorized on October 30, 1986.

(d) The Airports Authority shall be subject to a conflict-of-interest provision providing that members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority. Exceptions to requirements of the preceding sentence may be made by the official appointing a member at the time the member is appointed, if the



financial interest is fully disclosed and so long as the member does not participate in board decisions that directly affect such interest. The Airports Authority shall include in its code developed under § 9-1004(c)(8) the standards by which members will determine what constitutes a substantial financial interest and the circumstances under which an exception may be granted.

(e)(1) The Airports Authority shall be governed by a board of directors of 11 members, as follows:

(A) Five members shall be appointed by the Governor of Virginia;

(B) Three members shall be appointed by the Mayor of the District of Columbia;

(C) Two members shall be appointed by the Governor of Maryland; and

(D) One member shall be appointed by the President with the advice and consent of the Senate.

The Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(2) Members shall (A) not hold elective or appointive political office, (B) serve without compensation other than for reasonable expenses incident to board functions, and (C) reside within the Washington Standard Metropolitan Statistical Areas, except that the member appointed by the President shall not be required to reside in that area.

(3) Members shall be appointed to the board for a term of 6 years, except that of members first appointed:

(A) By the Governor of Virginia, 2 shall be appointed for 4 years and 2 shall be appointed for 2 years;

(B) By the Mayor of the District of Columbia, 1 shall be appointed for 4 years and 1 shall be appointed for 2 years; and

(C) By the Governor of Maryland, 1 shall be appointed for 4 years.

(4) A member of the board appointed by the President shall be subject to removal by the President for cause.

(5) Seven votes shall be required to approve bond issues and the annual budget.

(f)(1) The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. Such Board of Review shall be established by the board of directors and shall consist of the following, in their individual capacities, as representatives of users of the Metropolitan Washington Airports:

(A) Two members of the Public Works and Transportation Committee and 2 members of the Appropriations Committee of the House of Representatives from a list provided by the Speaker of the House;

(B) Two members of the Commerce, Science, and Transportation Committee and 2 members of the Appropriations Committee of the Senate from a list provided by the President pro tempore of the Senate; and

(C) One member chosen alternately from members of the House of Representatives and members of the Senate, from a list provided by the Speaker of the House or the President pro tempore of the Senate, respectively. The members of the Board of Review shall elect a chairman. A member of the

House of Representatives or the Senate from Maryland or Virginia and the Delegate from the District of Columbia may not serve on the Board of Review.

(2) Members of the Board of Review appointed under subparagraphs (A) and (B) of paragraph (1) of this subsection shall be appointed for terms of 6 years, except that of the members first appointed, 1 member under each of subparagraphs (A) and (B) of paragraph (1) of this subsection shall be appointed for a term of 2 years and 1 member under each of subparagraphs (A) and (B) of paragraph (1) of this subsection shall be appointed for a term of 4 years. Members of the Board of Review appointed under subparagraph (C) of paragraph (1) of this subsection shall be appointed for terms of 2 years. A vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

(3) The Board of Review shall establish procedures for conducting its business. The procedures may include requirements for a quorum at meetings and for proxy voting. The Board shall meet at least once each year and shall meet at the call of the chairman or 3 members of the Board. Any decision of the Board of Review under paragraph (4) or (5) of this subsection shall be by a vote of 5 members of the Board.

(4)(A) An action of the Airports Authority described in subparagraph (B) of this paragraph shall be submitted to the Board of Review at least 30 days (or at least 60 days in the case of the annual budget) before it is to become effective.

(B) The following are the actions referred to in subparagraph (A) of this paragraph:

- (i) The adoption of an annual budget;
- (ii) The authorization for the issuance of bonds;
- (iii) The adoption, amendment, or repeal of a regulation;
- (iv) The adoption or revision of a master plan, including any proposal for land acquisition; and
- (v) The appointment of the chief executive officer.

(C) If the Board of Review does not disapprove an action within 30 days of its submission under this paragraph, the action may take effect. If the Board of Review disapproves any such action, it shall notify the Airports Authority and shall give reasons for the disapproval.

(D) An action disapproved under this paragraph shall not take effect. Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.

(5) The Board of Review may request the Airports Authority to consider and vote, or to report, on any matter related to the Metropolitan Washington Airports. Upon receipt of such a request the Airports Authority shall consider and vote, or report, on the matter as promptly as feasible.

(6) Members of the Board of Review may participate as nonvoting members in meetings of the board of the Airports Authority.



(7) The Board of Review may hire 2 staff persons to be paid by the Airports Authority. The Airports Authority shall provide such clerical and support staff as the Board may require.

(8) A member of the Board of Review shall not be liable in connection with any claim, action, suit, or proceeding arising from service on the Board.

(g) Any action of the Airports Authority changing, or having the effect of changing, the hours of operation of or the type of aircraft serving either of the Metropolitan Washington Airports may be taken only by regulation of the Airports Authority.

(h) If the Board of Review established under subsection (f) of this section is unable to carry out its functions under this chapter by reason of a judicial order, the Airports Authority shall have no authority to perform any of the actions that are required by subsection (f)(4) of this section to be submitted to the Board of Review.

(Oct. 30, 1986, 100 Stat. 3341-376, Pub. L. 99-591, § 6007.)

**Cross references.** — Nomination and approval of agency heads, see § 1-523.01.

**Section references.** — This section is referenced in § 1-523.01, § 9-1003, § 9-1005, § 9-1008, and § 9-1010.

**Prior Codifications.** — 1981 Ed., § 7-1506.

**Short title.** — Short title: See Historical and Statutory Notes following § 9-1001.

**Editor's notes.** — Limitation on Authority

of Airports Authority: Section 7004(c) of Pub. L. 102-240, 105 Stat. 2202, December 18, 1991, limited the authority of the Metropolitan Washington Airports Authority to perform any of the actions required to be submitted to the Board of Review until the Airports Authority establishes a new Board of Review in accordance with this Act.

## CASE NOTES

### ANALYSIS

Standing.

Validity.

### Standing.

Organization and individuals concerned with operation of District of Columbia area airports had standing to challenge constitutionality of creation of board consisting of members of Congress and with veto power over decisions of local airport authority; plaintiffs' claims that plan approved under statutory scheme would result in increased noise, pollution and risk of accidents was sufficient to allege personal injury fairly traceable to board's veto power, and board's veto power was an impediment to reduction in complained-of activity. *Metropolitan Washington Airports Authority v. Citizens for Abatement of Aircraft Noise, Inc.*, 111 S.Ct. 2298, 1991 U.S. LEXIS 3491 (U.S. Dist. Col. 1991).

Organization and individuals concerned with operation of area airports had standing to challenge constitutionality of conditions attached by Congress to transfer of federally owned and operated airports to regional airport authority that included review board composed entirely of congressional members; organization and

individuals claimed they were adversely affected by noise, air pollution, and risks of injury associated with flights in and out of airport, and that harm was fairly traceable to implementation of plan providing for significant increase in air traffic that could be carried out by regional authority only with review board in operation. U.S. Const. Art. 3, § 1 et seq. *Citizens for Abatement of Aircraft Noise v. Metropolitan Wash. Airports Auth.*, 917 F.2d 48, 1990 U.S. App. LEXIS 18740 (C.A.D.C. 1990), affirmed by 501 U.S. 252, 111 S. Ct. 2298, 115 L. Ed. 2d 236, 1991 U.S. LEXIS 3491, 59 U.S.L.W. 4660, 91 Cal. Daily Op. Service 4528, 91 D.A.R. 7065 (1991).

### Validity.

Congress' conditioning of transfer of District of Columbia area airports to local airport authority upon creation of Board of Review composed of congressmen and having veto power over decisions of local authority's directors violated separation of powers. *Metropolitan Washington Airports Act of 1986*, § 6007(f), 49 U.S.C.App. § 2456(f). *Metropolitan Washington Airports Authority v. Citizens for Abatement of Aircraft Noise, Inc.*, 111 S.Ct. 2298, 1991 U.S. LEXIS 3491 (U.S. Dist. Col. 1991).

Authority of review board composed of mem-



bers of Congress over regional airport authority was subject to federal separation of powers principles, even though Virginia and the District of Columbia were not required to accept Congress' conditional offer to transfer federally owned and operated airports to regional airport authority, that included review board's authority; acceptance of offer did not mean that terms attached to offer could not result in exercise of federal power, and fact that federal government was acting in proprietary capacity when regional authority was required to create review board as condition to lease of airports was not significant in determining applicability of separation of powers principles. *Metropolitan Washington Airports Act of 1986*, § 6007(f)(1), (h), 49 U.S.C.App. § 2456(f)(1), (h). *Citizens for Abatement of Aircraft Noise v. Metropolitan Wash. Airports Auth.*, 917 F.2d 48, 1990 U.S. App. LEXIS 18740 (C.A.D.C. 1990), affirmed by 501 U.S. 252, 111 S. Ct. 2298, 115 L. Ed. 2d 236, 1991 U.S. LEXIS 3491, 59 U.S.L.W. 4660, 91 Cal. Daily Op. Service 4528, 91 D.A.R. 7065 (1991).

Congress' powers under federal constitutional property clause did not remove from separation of powers scrutiny Congress' imposition of review board composed of members of Congress as condition of transfer of federally owned and operated airports to regional airport

authority, although property clause authority could be used to achieve through economic incentive objectives that Congress might not be able to mandate directly; Congress could not use property clause authority to circumvent functional constraints placed on it by Constitution. U.S. Const. Art. 4, § 3, cl. 2. *Citizens for Abatement of Aircraft Noise v. Metropolitan Wash. Airports Auth.*, 917 F.2d 48, 1990 U.S. App. LEXIS 18740 (C.A.D.C. 1990), affirmed by 501 U.S. 252, 111 S. Ct. 2298, 115 L. Ed. 2d 236, 1991 U.S. LEXIS 3491, 59 U.S.L.W. 4660, 91 Cal. Daily Op. Service 4528, 91 D.A.R. 7065 (1991).

Review board composed of members of Congress established for regional airport authority as condition of transfer of federally owned and operated airports to authority violated separation of powers principles, as review board's operation partook of executive function while board was essentially congressional agent. *Metropolitan Washington Airports Act of 1986*, § 6007(f)(1), (h), 49 U.S.C.App. § 2456(f)(1), (h). *Citizens for Abatement of Aircraft Noise v. Metropolitan Wash. Airports Auth.*, 917 F.2d 48, 1990 U.S. App. LEXIS 18740 (C.A.D.C. 1990), affirmed by 501 U.S. 252, 111 S. Ct. 2298, 115 L. Ed. 2d 236, 1991 U.S. LEXIS 3491, 59 U.S.L.W. 4660, 91 Cal. Daily Op. Service 4528, 91 D.A.R. 7065 (1991).

## § 9-1007. Federal employees at the Metropolitan Washington Airports.

(a) Not later than the date the lease under § 9-1004 takes effect, the Secretary shall ensure that the Airports Authority has established arrangements to protect the employment interests of employees during the 5-year period beginning on such date. These arrangements shall include provisions:

(1) Which ensure that the Airports Authority will adopt labor agreements in accordance with the provisions of subsection (b) of this section;

(2) For the transfer and retention of all employees who agree to transfer to the Airports Authority in their same positions for the 5-year period commencing on the date the lease under § 9-1004 takes effect except in cases of reassignment, separation for cause, resignation, or retirement;

(3) For the payment by the Airports Authority of basic and premium pay to transferred employees, except in cases of separation for cause, resignation, or retirement, for 5 years commencing on the date the lease takes effect at or above the rates of pay in effect for such employees on such date;

(4) For credit during the 5-year period commencing on the date the lease takes effect for accrued annual and sick leave and seniority rights which have been accrued during the period of federal employment by transferred employees retained by the Airports Authority; and

(5) For an offering of not less than 1 life insurance and 3 health insurance programs for transferred employees retained by the Airports Authority during the 5-year period beginning on the date the lease takes effect which are

reasonably comparable with respect to employee premium cost and coverage to the federal health and life insurance programs available to employees on the day before such date.

(b)(1) The Airports Authority shall adopt all labor agreements which are in effect on the date the lease under § 9-1004 takes effect. Such agreements shall continue in effect for the 5-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree to the contrary before the expiration of that 5-year period. Such agreements shall be renegotiated during the 5-year period, unless the parties agree otherwise. Any labor-management negotiation impasse declared before the date the lease takes effect shall be settled in accordance with Chapter 71 of Title 5, United States Code.

(2) The arrangements made pursuant to this section shall assure, during the 50-year lease term, the continuation of all collective bargaining rights enjoyed by transferred employees retained by the Airports Authority.

(c) Any transferred employee whose employment with the Airports Authority is terminated during the 5-year period beginning on the date the lease under § 9-1004 takes effect shall be entitled, as a condition of any lease entered into in accordance with § 9-1004, to rights and benefits to be provided by the Airports Authority that are similar to those such employee would have had under federal law if termination had occurred immediately before such date.

(d) Any employee who transfers to the Airports Authority under this section shall not be entitled to lump-sum payment for unused annual leave under 5 U.S.C. § 5551, but shall be credited by the Airports Authority with the unused annual leave balance on the date the lease under § 9-1004 takes effect, along with any unused sick leave balance on such date. During the 5-year period beginning on such date, annual and sick leave shall be earned at the same rates permitted on the day before such date, and observed official holidays shall be the same as those specified in 5 U.S.C. § 6103.

(e) Any federal employee who transfers to the Airports Authority and who on the day before the date the lease under § 9-1004 takes effect is subject to subchapter III of Chapter 83 of Title 5, United States Code, or Chapter 84 of such title shall, so long as continually employed by the Airports Authority without a break in service, continue to be subject to such subchapter or chapter, as the case may be. Employment by the Airports Authority without a break in continuity of service shall be considered to be employment by the United States government for purposes of such subchapter and chapter. The Airports Authority shall be the employing agency for purposes of such subchapter and chapter and shall contribute to the Civil Service Retirement and Disability Fund such sums as are required by such subchapter and chapter.

(f) An employee who does not transfer to the Airports Authority and who does not otherwise remain a federal employee shall be entitled to all of the rights and benefits available under federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Airports Authority of work substantially similar to that performed for the federal government.



(g) The Airports Authority shall allow representatives of the Secretary adequate access to employees and employee records of the Airports Authority when needed for the performance of functions related to the period before the date the lease under § 9-1004 takes effect. The Secretary shall provide the Airports Authority access to employee records of transferring employees for appropriate purposes.

(Oct. 30, 1986, 100 Stat. 3341-376, Pub. L. 99-591, § 6008.)

**Section references.** — This section is referenced in § 9-1004.

**Short title.** — Short title: See Historical and Statutory Notes following § 9-1001.

**Prior Codifications.** — 1981 Ed., § 7-1507.

## § 9-1008. Relationship to and effect of other laws.

(a) In order to assure that the Airports Authority has the same proprietary powers and is subject to the same restrictions with respect to federal law as any other airport except as otherwise provided in this chapter, during the period that the lease authorized by § 9-1004 is in effect:

(1) The Metropolitan Washington Airports shall be considered public airports for purposes of 49 U.S.C. App. § 2201 et seq. [see now 49 U.S.C. § 47101 et seq. and 49 U.S.C. § 49101 et seq.]; and

(2) The Acts entitled “An Act to provide for the administration of the Washington National Airport, and for other purposes”, “An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia”, and “An act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes” shall not apply to the operation of the Metropolitan Washington Airports, and the Secretary shall be relieved of all responsibility under those Acts.

(b) The Metropolitan Washington Airports and the Airports Authority shall not be subject to the requirements of any law solely by reason of the retention by the United States of the fee simple title to such airports or by reason of the authority of the Board of Review under § 9-1006(f).

(c) The Commonwealth of Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of the Commonwealth of Virginia may exercise jurisdiction over Washington National Airport.

(d)(1) The authority of the National Capital Planning Commission under § 5 of the Act of June 6, 1924 (40 U.S.C. § 71d) [see now 40 U.S.C. § 8722] shall not apply to the Airports Authority.

(2) The Airports Authority shall consult:

(A) With the National Capital Planning Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport; and

(B) With the National Capital Planning Commission before undertaking development that would alter the skyline of Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.



(e)(1) The Administrator may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on October 30, 1986 and may not decrease the number of such takeoffs and landings except for reasons of safety.

(2) The Federal Aviation Administration air traffic regulation entitled "Modification of Allocation: Washington National Airport" (14 C.F.R. 93.124) shall cease to be in effect on October 30, 1986.

(Oct. 30, 1986, 100 Stat. 3341-376, Pub. L. 99-591, § 6009.)

**Prior Codifications.** — 1981 Ed., § 7-1508.

**Short title.** — Short title: See Historical and Statutory Notes following § 9-1001.

**References in text.** — "An Act to provide for the administration of the Washington National Airport, and for other purposes," referred to in subsection (a)(2), is 54 Stat. 686.

"An Act to authorize the construction, protection, operation, and maintenance of a public

airport in or in the vicinity of the District of Columbia," referred to in subsection (a)(2), is 64 Stat. 770.

"An Act making supplemental appropriations for the support of the government for the fiscal year ending June 30, 1941, and for other purposes," referred to in subsection (a)(2), is 54 Stat. 1030.

## § 9-1009. Authority to negotiate extension of lease.

The Secretary and the Airports Authority may at any time negotiate an extension of the lease entered into under § 9-1004(a).

(Oct. 30, 1986, 100 Stat. 3341-376, Pub. L. 99-591, § 6010.)

**Prior Codifications.** — 1981 Ed., § 7-1509.

**Short title.** — Short title: See Historical and Statutory Notes following § 9-1001.

## § 9-1010. Separability.

Except as provided in § 9-1006(h), if any provision of this chapter or the application thereof to any person or circumstance, is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Oct. 30, 1986, 100 Stat. 3341-376, Pub. L. 99-591, § 6011.)

**Prior Codifications.** — 1981 Ed., § 7-1510.

**Short title.** — Short title: See Historical and Statutory Notes following § 9-1001.

## § 9-1011. Nonstop flights.

An air carrier may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,250 statute miles away from Washington National Airport.

(Oct. 30, 1986, 100 Stat. 3341-376, Pub. L. 99-591, § 6012.)

**Prior Codifications.** — 1981 Ed., § 7-1511.

**Short title.** — Short title: See Historical and Statutory Notes following § 9-1001.

# SUBTITLE III. NATIONAL CAPITAL REGION TRANSPORTATION.

## CHAPTER 11. NATIONAL CAPITAL REGION TRANSPORTATION.

### *Subchapter I. National Capital Transportation Program*

Sec.

- 9-1101.01. Agreements with Maryland and Virginia to develop continuing comprehensive transportation planning process.

### *Subchapter II. Compact for Mass Transportation*

- 9-1103.01. Congressional consent given for Virginia, Maryland and District of Columbia to enter into Compact.  
9-1103.02. Congressional consent given to effectuate amendments to Compact.  
9-1103.03. Duties of Mayor; appropriations authorized; Congressional approval required for Compact amendments.  
9-1103.04. Effect of Compact on other laws.  
9-1103.05. Congressional consent conditioned on nonuse of Compact to break a lawful strike.  
9-1103.06. Jurisdiction to review orders of Washington Metropolitan Area Transit Commission and to enforce Compact.  
9-1103.07. Reservation of right to alter, amend, or repeal subchapter; submission of periodic reports to Congress; scope of Congressional inquiry.

### *Subchapter III. Rail Rapid Transit*

- 9-1105.01. Statement of findings and purpose.  
9-1105.02. Appropriations authorized.  
9-1105.03. Severability.

### *Subchapter IV. Washington Metropolitan Area Transit Authority Compact*

- 9-1107.01. Congressional consent given to Compact amendment.  
9-1107.02. Authority of Council to enact acts adopting Compact amendments.  
9-1107.03. Consent of Council to Compact amendments.  
9-1107.04. Congressional consent to amendments — Articles I, III, VII, IX, XI, XIV, and XVI of Title III.  
9-1107.05. Congressional consent to amendments — Articles XII and XVI of Title III.  
9-1107.06. Congressional consent to amendments — Articles I and XVI of Title III.

Sec.

- 9-1107.07. Mayor directed to execute Compact amendments; appropriations.  
9-1107.08. Mayor to enter agreements to make certain technical amendments; effective date of technical amendments.  
9-1107.09. Transfer of functions, duties, property, and records of National Capital Transportation Agency to Washington Metropolitan Area Transit Authority.  
9-1107.10. Jurisdiction of courts; removal of actions.  
9-1107.11. Amendment of laws and reorganization plans.  
9-1107.12. Reservation of right to alter, amend or repeal subchapter; submission of reports; scope of Presidential and Congressional inquiry; audits.

### *Subchapter IV-A. Washington Metropolitan Area Transit Authority Fund*

- 9-1108.01. Washington Metropolitan Area Transit Authority Fund established.  
9-1108.02. Applicability.

### *Subchapter IV-B. Appointment of Board of Directors of the Metropolitan Area Transit Authority*

- 9-1108.11. Requirements for appointment and service on the Board of Directors of the Washington Metropolitan Area Transit Authority.

### *Subchapter V. Washington Metropolitan Area Transit Authority Safety Regulation*

- 9-1109.01. Definitions.  
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- 9-1111.01. Definitions.  
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- 9-1111.15. Establishment of Metrorail/Metrobus Account.
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*Subchapter VII. Acquisition of Mass Transit Bus Systems*

- 9-1113.01. Acquisition of bus companies; franchise cancelled; charter bus service by Authority; corporate status of D.C. Transit System, Inc.

Sec.

- 9-1113.02. Payment by Mayor of District's share of acquisition cost authorized.
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- 9-1113.04. Immediate grants.
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- 9-1113.06. Jurisdiction for condemnation proceedings.
- 9-1113.07. Authority of Comptroller General.

*Subchapter VIII. Woodrow Wilson Bridge and Tunnel Compact*

- 9-1115.01. Authority to enter into Compact.
- 9-1115.02. Preamble to Compact.
- 9-1115.03. Woodrow Wilson Bridge and Tunnel Compact.
- 9-1115.04. Compact provisions as law.

*Subchapter IX. Potomac River Bridges Towing Compact*

- 9-1117.01. Mayor authorized to enter into Compact; purpose.
- 9-1117.02. State Troopers and local law enforcement officers authority.
- 9-1117.03. Exclusive jurisdiction over vehicles; governing laws and procedures.
- 9-1117.04. Compact not creating agency relationship.
- 9-1117.05. Withdrawal from Compact.

*Subchapter I. National Capital Transportation Program.*

**§ 9-1101.01. Agreements with Maryland and Virginia to develop continuing comprehensive transportation planning process.**

The Mayor is authorized to enter into such agreements with the States of Maryland and Virginia and with political subdivisions of such States as may be necessary to develop a continuing comprehensive transportation planning process for the National Capital region for the purpose of complying with the requirements of § 134 of Title 23, United States Code, except that no such agreement shall require the District of Columbia to pay more than its pro rata share of the costs of such planning process. In developing such transportation planning process the Mayor shall consult and cooperate with the National Capital Planning Commission and the National Capital Regional Planning Council. For the purpose of this section, the term "National Capital region" shall have the same meaning as is given it in § 1-1401.

(Sept. 30, 1966, 80 Stat. 859, Pub. L. 89-610, title X, § 1006.)

**Prior Codifications.** — 1981 Ed., § 1-2401. 1973 Ed., § 1-1401a.

**References in text.** — Section 1-1401, referred to at the end of the last sentence of the

section, refers to former § 1-1401 which was repealed by the Act of December 9, 1969, 83 Stat. 322, Pub. L. 91-143, § 8(a)(1).

**Change in Government.** — This section

originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CASE NOTES

### ANALYSIS

Law governing.  
Sovereign immunity.

#### Law governing.

Interpretation of an interstate compact is a matter of federal law. *Keenan v. Washington Metropolitan Area Transit Authority*, 643 F. Supp. 324, 1986 U.S. Dist. LEXIS 21028 (1986).

#### Sovereign immunity.

Washington Metropolitan Area Transit Authority (WMATA), which was established by interstate compact entered into by Maryland, Virginia and District of Columbia, enjoys state sovereign immunity pursuant to Eleventh Amendment. *Taylor v. Washington Metro. Area Transit Auth.*, 109 F.Supp.2d 11, 2000 U.S. Dist. LEXIS 11575 (2000), affirmed by 2000 U.S. App. LEXIS 35427 (D.C. Cir. Dec. 20, 2000).

Metropolitan Area Transit Authority compact did not grant Authority's attorneys or any other officials the authority to waive its Eleventh

Amendment immunity from suit so that action of Authority's attorneys in removing suit from superior court of District of Columbia to federal district court did not waive Authority's Eleventh Amendment immunity. *U.S.C. Const. Amend. 11. Keenan v. Washington Metropolitan Area Transit Authority*, 643 F. Supp. 324, 1986 U.S. Dist. LEXIS 21028 (1986).

Metro transit police officer was performing a governmental function when he intervened and arrested plaintiffs during fare card dispute, and pursuant to express language of compact entered into by Maryland, Virginia and the District of Columbia with the consent and approval of Congress, to regulate and improve mass transportation, Metropolitan Area Transit Authority had immunity from suit under the Eleventh Amendment and was not liable for torts allegedly committed in operation of its police force. *U.S. Const. Amend. 11; D.C. Code 1981, §§ 1-2401, 1-2411, 1-2431, Tit. III, § 80. Keenan v. Washington Metropolitan Area Transit Authority*, 643 F. Supp. 324, 1986 U.S. Dist. LEXIS 21028 (1986).

## *Subchapter II. Compact for Mass Transportation.*

### **§ 9-1103.01. Congressional consent given for Virginia, Maryland and District of Columbia to enter into Compact.**

The consent and approval of Congress is hereby given to the States of Virginia and Maryland and to the District of Columbia to enter into a Compact, substantially as follows, for the regulation and improvement of mass transit in the Washington metropolitan area, which Compact, known as the Washington Metropolitan Area Transit Regulation Compact, has been negotiated by representatives of the States and the District of Columbia and has been adopted by the State of Virginia (Ch. 627, 1958 Acts of Assembly), and in substance by the State of Maryland.

The States of Maryland and Virginia and the District of Columbia, hereinafter referred to as signatories, do hereby covenant and agree as follows:

## TITLE I

## GENERAL COMPACT PROVISIONS

## ARTICLE I

There is hereby created the Washington Metropolitan Transit District, hereinafter referred to as the Metropolitan District, which shall embrace the District of Columbia, the cities of Alexandria, Falls Church, and Fairfax, the counties of Arlington, Fairfax, and Loudoun, and political subdivisions of the Commonwealth of Virginia located within those counties, and the counties of Montgomery and Prince George's in the State of Maryland and political subdivisions of the State of Maryland located within those counties.

## ARTICLE II

1. The signatories hereby create the "Washington Metropolitan Area Transit Commission," hereafter called the "Commission," which shall be an instrumentality of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, and shall have the powers and duties set forth in the Compact and those additional powers and duties conferred upon it by subsequent action of the signatories.

2. The Commission shall have jurisdiction coextensive with the Metropolitan District for the regulation of passenger transportation within the Metropolitan District on a coordinated basis, without regard to political boundaries within the Metropolitan District, as set forth in this Compact.

## ARTICLE III

1.(a) The Commission shall be composed of three members, one member appointed by the Governor of Virginia from the Department of Motor Vehicles of the Commonwealth of Virginia, one member appointed by the Governor of Maryland from the Maryland Public Service Commission, and one member appointed by the Mayor of the District of Columbia from a District of Columbia agency with oversight of matters relating to the Commission.

(b) A member appointed shall serve for a term coincident with the term of that member on the agency of the signatory, and a member may be removed or suspended from office as the law of the appointing signatory provides.

(c) Vacancies shall be filled for an unexpired term in the same manner as an original appointment.

(d) An amendment to Section 1(a) of this Article shall not affect any member in office on the amendment's effective date.

2. A person in the employment of or holding an official relation to a person or company subject to the jurisdiction of the Commission or having an interest of any nature in a person or company or affiliate or associate thereof, may not hold the office of Commissioner or serve as an employee of the Commission or have any power or duty or receive any compensation in relation to the Commission.

3.(a) The Commission shall select a chairman from among its members.

(b) The chairman shall be responsible for the Commission's work and shall have all powers to discharge that duty.



4. A signatory may pay the Commissioner from its jurisdiction the salary or expenses, if any, that it considers appropriate.

5.(a) The Commission may employ engineering, technical, legal, clerical, and other personnel on a regular, part-time, or consulting basis to assist in the discharge of its functions.

(b) The Commission is not bound by any statute or regulation of a signatory in the employment or discharge of an officer or employee of the Commission, except that contained in this Compact.

6. The Commission shall establish its office at a location to be determined by the Commission within the Metropolitan District and shall publish rules and regulations governing the conduct of its operations.

#### ARTICLE IV

1.(a) The signatories shall bear the expenses of the Commission in the manner set forth here.

(b) The Commission shall submit to the Governor of Virginia, the Governor of Maryland, and the Mayor of the District of Columbia, when requested, a budget of its requirements for the period required by the laws of the signatories for presentation to the legislature.

(c) The Commission shall allocate its expenses among the signatories in the proportion that the population of each signatory within the Metropolitan District bears to the total population of the Metropolitan District.

(d)(i) The Commission shall base its allocation on the latest available population statistics of the Bureau of the Census; or

(ii) If current population data are not available, the Commission may, upon the request of a signatory, employ estimates of population prepared in a manner approved by the Commission and by the signatory making the request.

(e) The Governors of the two states and the Mayor of the District of Columbia shall approve the allocation made by the Commission.

2.(a) The signatories shall appropriate their proportion of the budget for the expenses of the Commission and shall pay that appropriation of the Commission.

(b) The budget of the Commission and the appropriations of the signatories may not include a sum for the payment of salaries or expenses of the Commissioners.

(c) The provisions of section 2.1-30 (1979) of the Code of Virginia do not apply to any official or employee of the Commonwealth of Virginia acting or performing services under this subchapter.

3.(a) If the Commission requests and a signatory makes available personnel, services, or material which the Commission would otherwise have to employ or purchase, the Commission shall:

(i) Determine an amount; and

(ii) Reduce the expenses allocable to a signatory.

(b) If any services in kind are rendered, the Commission shall return to the signatory an amount equivalent to the savings to the Commission represented by the contribution in kind.

4.(a) The Commission shall have the power to establish fees under regulations, including but not limited to filing fees and annual fees.

(b) The Commission shall return to the signatories fees established by it in proportion to the share of the Commission's expenses borne by each signatory in the fiscal year during which the fees were collected.

5.(a) The Commission shall keep accurate books of account, showing in full its receipts and disbursements.

(b) The books of account shall be open for inspection by representatives of the respective signatories at any reasonable time.

#### ARTICLE V

1. An action by the Commission may not be effective unless a majority of the members concur.

2. An order entered by the Commission under the provisions of Title II of this subchapter which affect operations or matters solely intrastate or solely within the District of Columbia may not be effective unless the Commissioner from the affected signatory concurs.

3. Two members of the Commission are a quorum.

4. The Commission may delegate by regulation the tasks that it considers appropriate.

#### ARTICLE VI

This Compact does not amend, alter, or affect the power of the signatories and their political subdivisions to levy and collect taxes on the property or income of any person or company subject to this subchapter or upon any material, equipment, or supplies purchased by that person or company or to levy, assess, and collect franchise or other similar taxes, or fees for the licensing of vehicles and their operation.

#### ARTICLE VII

This amended Compact shall become effective 90 days after the signatories adopt it.

#### ARTICLE VIII

1.(a) This Compact may be amended from time to time without the prior consent or approval of the Congress of the United States and any amendment shall be effective unless, within one year, the Congress disapproves that amendment.

(b) An amendment may not be effective unless adopted by each of the signatories.

2.(a) A signatory may withdraw from the Compact upon written notice to the other signatories.

(b) In the event of a withdrawal, the Compact shall be terminated at the end of the Commission's next full fiscal year following the notice.

3. Upon the termination of this Compact, the jurisdiction over the matters and persons covered by this subchapter shall revert to the signatories and the federal government, as their interest may appear, and the applicable laws of the signatories and the federal government shall be reactivated without further legislation.

## ARTICLE IX

Each of the signatories pledges to each of the other signatories faithful cooperation in the regulation of passenger transportation within the Metropolitan District and agrees to enact any necessary legislation to achieve the objectives of the Compact for the mutual benefit of the citizens living in the Metropolitan District.

## ARTICLE X

1. If a provision of this subchapter or its application to any person or circumstance is held invalid in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this subchapter which can be given effect without the invalid provision or application, and for this purpose the provisions of this subchapter are declared severable.

2. In accordance with the ordinary rules for construction of interstate compacts, this subchapter shall be liberally construed to effectuate its purposes.

## TITLE II

*COMPACT REGULATORY PROVISIONS*

## ARTICLE XI

1. This subchapter shall apply to the transportation for hire by any carrier of persons between any points in the Metropolitan District, including but not limited to:

(a) As to interstate and foreign commerce, transportation performed over a regular route between a point in the Metropolitan District and a point outside the Metropolitan District if:

(i) The majority of passengers transported over that regular route are transported between points within the Metropolitan District; and

(ii) That regular route is authorized by a certificate of public convenience and necessity issued by the Interstate Commerce Commission; and

(b) The rates, charges, regulations, and minimum insurance requirements for taxicabs and other vehicles that perform a bona fide taxicab service where the taxicab or other vehicle:

(i) Has a seating capacity of 9 persons or less, including the driver; and

(ii) Provides transportation from one signatory to another within the Metropolitan District.

2. Solely for the purposes of this section and section 18 of this Article:

(a) The Metropolitan District shall include that portion of Anne Arundel County, Maryland, occupied by the Baltimore-Washington International Airport; and

(b) Jurisdiction of the Commission shall apply to taxicab rates, charges, regulations, and minimum insurance requirements for interstate transportation between the Baltimore-Washington International Airport and other points in the Metropolitan District, unless conducted by a taxicab licensed by the State of Maryland or a political subdivision of the State of Maryland, or operated under a contract with the State of Maryland.



3. Excluded from the application of this subchapter are:

- (a) Transportation by water, air, or rail;
- (b) Transportation performed by the federal government, the signatories to this Compact, or any political subdivision of the signatories;
- (c) Transportation performed by the Washington Metropolitan Area Transit Authority;
- (d) Transportation by a motor vehicle employed solely in transporting teachers and school children through grade 12 to or from public or private schools;
- (e) Transportation performed over a regular route between a point in the Metropolitan District and a point outside the Metropolitan District, including transportation between those points on the regular route that are within the Metropolitan District, if:
  - (i) The majority of passengers transported over the regular route are not transported between points in the Metropolitan District; and
  - (ii) The regular route is authorized by a certificate of public convenience and necessity issued by the Interstate Commerce Commission;
- (f) Matters other than rates, charges, regulations, and minimum insurance requirements relating to vehicles and operations described in Sections 1(b) and 2 of this Article;
- (g) Transportation solely with the Commonwealth of Virginia and the activities of persons performing that transportation; and
- (h) The exercise of any power of the discharge of any duty conferred or imposed upon the State Corporation Commission of Virginia by the Virginia Constitution.

#### Definitions

4. In this subchapter the following words have the meanings indicated.

- (a) "Carrier" means a person who engages in the transportation of passengers by motor vehicle or other form or means of hire.
- (b) "Motor vehicle" means an automobile, bus, or other vehicle propelled or drawn by mechanical or electrical power on the public streets or highways of the Metropolitan District and used for the transportation of passengers.
- (c) "Person" means an individual, firm, copartnership, corporation, company, association or joint stock association, and includes a trustee, receiver, assignee, or personal representative of them.
- (d) "Taxicab" means a motor vehicle for hire (other than a vehicle operated under a Certificate of Authority issued by the Commission) having a seating capacity of 9 persons or less, including the driver, used to accept or solicit passengers along the public streets for transportation.

#### General Duties of Carriers

5. Each authorized carrier shall:

- (a) Provide safe and adequate transportation service, equipment, and facilities; and

(b) Observe and enforce Commission regulations established under this subchapter.

#### Certificates of Authority

6.(a) A person may not engage in transportation subject to this subchapter unless there is in force a "Certificate of Authority" issued by the Commission authorizing the person to engage in that transportation.

(b) On the effective date of this subchapter a person engaged in transportation subject to this subchapter under an existing "Certificate of Public Convenience and Necessity" or order issued by the Commission shall be issued a new "Certificate of Authority" within 120 days after the effective date of this amendment.

(c)(i) Pending issuance of the new Certificate of Authority, the continuance of operations shall be permitted under an existing certificate or order issued by the Commission which will continue in effect on the effective date of this subchapter.

(ii) The operations described in paragraph (i) of this subsection shall be performed according to the rates, regulations, and practices of the certificate holder on file with the Commission on March 16, 1989.

7.(a) When an application is made under this section for a Certificate of Authority, the Commission shall issue a certificate to any qualified applicant, authorizing all or any part of the transportation covered by the application, if it finds that:

(i) The applicant is fit, willing, and able to perform that transportation properly, conform to the provisions of this subchapter, and conform to the rules, regulations, and requirements of the Commission; and

(ii) That the transportation is consistent with the public interest.

(b) If the Commission finds that the requirements of subsection (a) of this section have not been met, the application shall be denied by the Commission.

(c) The Commission shall act upon applications under this subchapter as soon as possible.

(d) The Commission may attach to the issuance of a certificate and to the exercise of the rights granted under it any term, condition, or limitation that is consistent with the public interest.

(e) A term, condition, or limitation imposed by the Commission may not restrict the right of the carrier to add to equipment and facilities over the routes or within the territory specified in the certificate, as business development and public demand may require.

(f) A person applying for or holding a Certificate of Authority shall comply with Commission regulations regarding maintenance of a surety bond, insurance policy, self-insurance qualification, or other security or agreement in an amount that the Commission may require to pay any final judgment against a carrier for bodily injury or death of a person, or for loss or damage to property of another, resulting from the operation, maintenance, or use of a motor vehicle or other equipment in performing transportation subject to this subchapter.

(g) A Certificate of Authority is not valid unless the holder is in compliance with the insurance requirements of the Commission.

8. Application to the Commission for a certificate under this subchapter shall be:

- (a) Made in writing;
- (b) Verified; and
- (c) In the form and with the information that the Commission regulations require.

9.(a) A Certificate of Authority issued by the Commission shall specify the route over which a regularly scheduled commuter service or other regular-route service will operate.

(b) A certificate issued by the Commission authorizing irregular-route service shall be coextensive with the Metropolitan District.

(c) A carrier subject to this subchapter may not provide any passenger transportation for hire on an individual fare paying basis in competition with an existing, scheduled, regular-route, passenger transportation service performed by, or under a contract with, the federal government, a signatory to the Compact, a political subdivision of a signatory, or the Washington Metropolitan Area Transit Authority, notwithstanding any Certificate of Authority.

(d) A certificate for the transportation of passengers may include authority to transport newspapers, passenger baggage, express, or mail in the same vehicle, or to transport passenger baggage in a separate vehicle.

10.(a) Certificates shall be effective from the date specified on them and shall remain in effect until amended, suspended, or terminated.

(b) Upon application by the holder of a certificate, the Commission may suspend, amend, or terminate the Certificate of Authority.

(c) Upon complaint or the Commission's own initiative, the Commission, after notice and hearing, may suspend or revoke all or part of any Certificate of Authority for willful failure to comply with:

- (i) A provision of this subchapter;
- (ii) An order, rule, or regulation of the Commission; or
- (iii) A term, condition, or limitation of the certificate.

(d) The Commission may direct that a carrier cease an operation conducted under a certificate if the Commission finds the operation, after notice and hearing, to be inconsistent with the public interest.

11.(a) A person may not transfer a Certificate of Authority unless the Commission approves the transfer as consistent with the public interest.

(b) A person other than the person to whom an operating authority is issued by the Commission may not lease, rent, or otherwise use that operating authority.

12.(a) A carrier may not abandon any scheduled commuter service operated under a Certificate of Authority issued to the carrier under this subchapter, unless the Commission authorizes the carrier to do so by a Commission order.

(b) Upon application by a carrier, the Commission shall issue an order, after notice and hearing, if it finds that abandonment of the route is consistent with the public interest.

(c) The Commission, by regulation or otherwise, may authorize the temporary suspension of a route if it is consistent with the public interest.

(d) As long as the carrier has an opportunity to earn a reasonable return in all its operations, the fact that a carrier is operating a service at a loss will



not, of itself, determine the question of whether abandonment of service is consistent with the public interest.

13.(a) When the Commission finds that there is an immediate need for service that is not available, the Commission may grant temporary authority for that service without a hearing or other proceeding up to a maximum of 180 consecutive days, unless suspended or revoked for good cause.

(b) A grant of temporary authority does not create any presumption that permanent authority will be granted at a later date.

#### Rates and Tariffs

14.(a) Each carrier shall file with the Commission, publish, and keep available for public inspection tariffs showing:

(i) Fixed-rates and fixed-fares for transportation subject to this subchapter; and

(ii) Practices and regulations including those affecting rates and fares, required by the Commission.

(b) Each effective tariff shall:

(i) Remain in effect for at least 60 days from its effective date, unless the Commission orders otherwise; and

(ii) Be published and kept available for public inspection in the form and manner prescribed by the Commission.

(c) A carrier may not charge a rate or fare for transportation subject to this subchapter other than the applicable rate or fare specified in a tariff filed by the carrier under this subchapter and in effect at the time.

15.(a) A carrier proposing to change a rate, fare, regulation, or practice specified in an effective tariff shall file a tariff showing the change in the form and manner, and with the information, jurisdiction, notice, and supporting material prescribed by the Commission.

(b) Each tariff filed under Subsection (a) of this Section shall state a date on which the tariff shall take effect, which shall be at least 7 calendar days after the date on which the tariff is filed, unless the Commission orders an earlier effective date or rejects the tariff.

(c)(i) A tariff filed for approval with the Commission may be refused acceptance for filing if it is not consistent with this subchapter and Commission regulations; and

(ii) A tariff refused for filing shall be void.

16.(a) The Commission may hold a hearing upon complaint or upon the Commission's own initiative after reasonable notice to determine whether a rate, fare, regulation, or practice relating to a tariff is unjust, unreasonable, unduly discriminatory, or unduly preferential between classes of riders or between locations within the Metropolitan District.

(b) Within 120 days of the hearing, the Commission shall pass an order prescribing the lawful rate, fare, regulation, or practice, or affirming the tariff.

#### Through Routes, Joint Fares

17. With the approval of the Commission, any carrier subject to this

subchapter may establish through routes and joint fares with any other lawfully authorized carrier.

### Taxicab Fares

18.(a) The Commission shall prescribe reasonable rates for transportation by taxicab, only when:

(i) The trip is between a point in the jurisdiction of one signatory and a point in the jurisdiction of another signatory; and

(ii) Both points are within the Metropolitan District.

(b) The fare or charge for taxicab transportation may be calculated on a mileage basis, a zone basis, or on any other basis approved by the Commission.

(c) The Commission may not require the installation of a taximeter in any taxicab when a taximeter is not permitted or required by the jurisdiction licensing and otherwise the operation and service of the taxicab.

(d) A person licensed by a signatory to own or operate a taxicab shall comply with Commission regulations regarding maintenance of a surety bond, insurance policy, self-insurance qualification, or other security or agreement in an amount that the Commission may require to pay a final judgment for bodily injury or death of a person, or for loss or damage to property of another, resulting from the operation, maintenance, or use of a taxicab in performing transportation subject to this subchapter.

## ARTICLE XII

### Accounts, Records, and Reports

1.(a) The Commission may prescribe that any carrier subject to this subchapter:

(i) Submit special reports and annual or other periodic reports;

(ii) Make reports in a form and manner required by the Commission;

(iii) Provide a detailed answer to any question about which the Commission requires information;

(iv) Submit reports and answers under oaths; and

(v) Keep accounts, records, and memoranda of its activity, including movement of traffic and receipt and expenditure of money in a form and for a period required by the Commission.

(b) The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes.

(c) This section shall apply to any person controlling, controlled by, or under common control with a carrier subject to this subchapter, whether or not that person otherwise is subject to this subchapter.

(d) A carrier that has its principal office outside of the Metropolitan District and operates both inside and outside of the Metropolitan District may keep all accounts, records, and memoranda at its principal office, but the carrier shall produce those materials before the Commission when directed by the Commission.

(e) This section does not relieve a carrier from recordkeeping or reporting obligations imposed by a state or federal agency or regulatory commission for transportation service rendered outside the Metropolitan District.

### Issuance of Securities

2. This subchapter does not impair any authority of the federal government and the signatories to regulate the issuance of securities by a carrier.

### Consolidations, Mergers, and Acquisition of Control

3.(a) A carrier or any person controlling, controlled by, or under control with a carrier shall obtain Commission approval to:

(i) Consolidate or merge any part of the ownership, management, or operation of its property or franchise with a carrier that operates in the Metropolitan District;

(ii) Purchase, lease, or contract to operate a substantial part of the property or franchise of another carrier that operates in the Metropolitan District; or

(iii) Acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means.

(b) Application for Commission approval of a transaction under this Section shall be made in the form and with the information that the regulations of the Commission require.

(c) If the Commission finds, after notice and hearing, that the proposed transaction is consistent with the public interest, the Commission shall pass an order authorizing the transaction.

(d) Pending determination of an application filed under this section, the Commission may grant "temporary approval" without a hearing or other proceeding up to a maximum of 180 consecutive days if the Commission determines that grant to be consistent with the public interest.

## ARTICLE XIII

### Investigation by the Commission and Complaints

1.(a) A person may file a written complaint with the Commission regarding anything done or omitted by a person in violation of a provision of this subchapter, or in violation of a requirement established under it.

(b)(i) If the respondent does not satisfy the complaint and the facts suggest that there are reasonable grounds for an investigation, the Commission shall investigate the matter.

(ii) If the Commission determines that a complaint does not state facts which warrant action, the Commission may dismiss the complaint without hearing.

(iii) The Commission shall notify a respondent that a complaint has been filed at least 10 days before a hearing is set on the complaint.

(c) The Commission may investigate on its own motion a fact, condition, practice, or matter to:



- (i) Determine whether a person has violated or will violate a provision of this subchapter or a rule, regulation, or order;
- (ii) Enforce the provisions of this subchapter or prescribe or enforce rules or regulations under it; or
- (iii) Obtain information to recommend further legislation.
- (d) If, after hearing, the Commission finds that a respondent has violated a provision of this subchapter or any requirement established under it, the Commission shall:
  - (i) Issue an order to compel the respondent to comply with this subchapter; and
  - (ii) Effect other just and reasonable relief.
- (e) For the purpose of an investigation or other proceeding under this subchapter, the Commission may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry.

#### Hearings; Rules of Procedure

- 2.(a) Hearings under this subchapter shall be held before the Commission, and records shall be kept.
- (b) Rules of practice and procedure adopted by the Commission shall govern all hearings, investigations, and proceedings under this subchapter, but the Commission may apply the technical rules of evidence when appropriate.

#### Administrative Powers of Commission; Rules, Regulations, and Orders

- 3.(a) The Commission shall perform any act, and prescribe, issue, make, amend, or rescind any order, rule, or regulation that it finds necessary to carry out the provisions of this subchapter.
- (b) The rules and regulations of the Commission shall prescribe the form of any statement, declaration, application, or report filed with the Commission, the information it shall contain, and the time of filing.
- (c) The rules and regulations of the Commission shall be effective 30 days after publication in the manner which the Commission shall prescribe, unless a different date is specified.
- (d) Orders of the Commission shall be effective on the date and in the manner which the Commission shall prescribe.
- (e) For the purposes of its rules and regulations, the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for them.
- (f) Commission rules and regulations shall be available for public inspection during reasonable business hours.

#### Reconsideration of Orders

- 4.(a) A party of a proceeding affected by a final order or decision of the Commission may file within 30 days of its publication a written application

requesting Commission reconsideration of the matter involved, and stating specifically the errors claimed as grounds for the reconsideration.

(b) The Commission shall grant or deny the application within 30 days after it has been filed.

(c) If the Commission does not grant or deny the application by order within 30 days, the application shall be deemed denied.

(d) If the application is granted, the Commission shall rescind, modify, or affirm its order or decision with or without a hearing, after giving notice to all parties.

(e) Filing an application for reconsideration may not act as a stay upon the execution of a Commission order or decision, or any part of it unless the Commission orders otherwise.

(f) An appeal may not be taken from an order or decision of the Commission until an application for reconsideration has been filed and determined.

(g) Only an error specified as a ground for reconsideration may be used as a ground for judicial review.

#### Judicial Review

5.(a) Any party to a proceeding under this subchapter may obtain a review of the Commission's order in the United States Court of Appeals for the Fourth Circuit, or in the United States Court of Appeals for the District of Columbia Circuit, by filing within 60 days after Commission determination of an application for reconsideration, a written petition praying that the order of the Commission be modified or set aside.

(b) A copy of the petition shall be delivered to the office of the Commission and the Commission shall certify and file with the court a transcript of the record upon which the Commission order was entered.

(c) The Court shall have exclusive jurisdiction to affirm, modify, remand for reconsideration, or set aside the Commission's order.

(d) The court's judgment shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in Title 28 U.S.C. sections 1254 and 2350.

(e) The commencement of proceedings under subsection (a) of this section may not operate as a stay of the Commission's order unless specifically ordered by the court.

(f) The Commission and its members, officers, agents, employees, or representatives are not liable to suit or action or for any judgment or decree for damages, loss, or injury resulting from action taken under the Act, nor required in any case arising or any appeal taken under this subchapter to make a deposit, pay costs, or pay for service to the clerks of a court or to the marshal of the United States or give a supersedeas bond or security for damages.

#### Enforcement of Act; Penalty for Violations

6.(a) Whenever the Commission determines that a person is engaged or will engage in an act or practice which violates a provision of this subchapter or a

rule, regulation, or order under it, the Commission may bring an action in the United States District Court in the district in which the person resides or conducts business or in which the violation occurred to enjoin the act or practice and to enforce compliance with this subchapter or a rule, regulation, or order under it.

(b) If the court makes a determination under subsection (a) of this section, that a person has violated or will violate this subchapter or a rule, regulation, or order under this subchapter, the court shall grant a permanent or temporary injunction or decree or restraining order without bond.

(c) Upon application of the Commission, the United States District Court for the district in which the person resides or conducts business, or in which the violation occurred, shall have jurisdiction to issue an order directing that person to comply with the provisions of this subchapter or a rule, regulation, or order of the Commission under it, and to effect other just and reasonable relief.

(d) The Commission may employ attorneys necessary for:

- (i) The conduct of its work;
- (ii) Representation of the public interest in Commission investigations, cases, or proceedings on the Commission's own initiative or upon complaint; or
- (iii) Representation of the Commission in any court case.

(e) The expenses of employing an attorney shall be paid out of the funds of the Commission unless otherwise directed by the court.

(f)(i) A person who knowingly or willfully violates a provision of this subchapter, or a rule, regulation, requirement, or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation.

(ii) Each day of the violation shall constitute a separate violation.

(iii) Civil forfeitures shall be paid to the Commission with interest as assessed by the court.

(iv) The Commission shall pay to each signatory a share of the civil forfeitures and interest equal to the proportional share of the Commission's expenses borne by each signatory in the fiscal year during which the civil forfeiture is collected by the Commission.

## ARTICLE XIV

### Expenses of Investigations and Other Proceedings

1.(a) A carrier shall bear all expenses of an investigation or other proceeding conducted by the Commission concerning the carrier, and all litigation expenses, including appeals, arising from an investigation or other proceeding.

(b) When the Commission initiates an investigation or other proceeding, the Commission may require the carrier to pay to the Commission a sum estimated to cover the expenses that will be incurred under this section.

(c) Money paid by the carrier shall be deposited in the name and to the credit of the Commission, in any bank or other depository located in the Metropolitan District designated by the Commission, and the Commission may



disburse that money to defray expenses of the investigation, proceeding, or litigation in question.

(d) The Commission shall return to the carrier any unexpended balance remaining after payment of expenses.

### Applicability of Other Laws

2.(a) The applicability of each law, rule, regulation, or order of a signatory relating to transportation subject to this subchapter shall be suspended on the effective date of this subchapter.

(b) The provisions of subsection (a) of this section do not apply to a law of a signatory relating to inspection of equipment and facilities.

(c) During the existence of the Compact, the jurisdiction of the Interstate Compact Commission is suspended to the extent it is in conflict with the provisions of this subchapter.

### Existing Rules, Regulations, Orders, and Decisions

3. All Commission rules, regulations, orders, or decisions that are in force on the effective date of this subchapter shall remain in effect and be enforceable under this subchapter, unless otherwise provided by the Commission.

### Pending Actions or Proceedings

4. A suit, action, or other judicial proceeding commenced prior to the effective date of this subchapter by or against the Commission is not affected by the enactment of this subchapter and shall be prosecuted and determined under the law applicable at the time the proceeding was commenced.

### Annual Report of the Commission

5. The Commission shall make an annual report for each fiscal year ending June 30, to the Governor of Virginia and the Governor of Maryland, and to the Mayor of the District of Columbia as soon as practicable after June 30, but no later than the first day of January of each year, which may contain, in addition to a report of the work performed under this subchapter, other information and recommendations concerning passenger transportation within the Metropolitan District as the Commission considers advisable.

(Sept. 15, 1960, 74 Stat. 1031, Pub. L. 86-794, § 1; Oct. 9, 1962, 76 Stat. 765, Pub. L. 87-767, § 1; Mar. 16, 1989, D.C. Law 7-224, §§ 2, 3, 36 DCR 575; June 6, 1996, D.C. Law 11-138, § 3, 43 DCR 2142; Mar. 21, 2009, D.C. Law 17-318, § 2, 56 DCR 212.)

**Cross references.** — Blind or deaf persons, entitlement to public accommodations, conveyances, see § 7-1002.

Persons displaced by Transit Authority acquisitions of real property, relocation, financial assistance, see § 6-333.01.

Public conveyances and accommodations,

equal access for blind and physically disabled persons, see § 7-1002.

**Section references.** — This section is referenced in § 9-1103.05, § 9-1105.01, § 9-1107.01, and § 50-2536.

**Prior Codifications.** — 1981 Ed., § 1-2411. 1973 Ed., § 1-1410.

**Effect of amendments.** — D.C. Law 17-318, in section 1 of Article III of Title I of the compact, substituted “Virginia from the Department of Motor Vehicles of the Commonwealth of Virginia” for “Virginia from the State Corporation Commission of the Commonwealth of Virginia”, substituted “from a District of Columbia agency with oversight of matters relating to the Commission” for “from the Public Service Commission of the District of Columbia”, and added subsec. (d).

**Temporary Amendment of Section.** — Section 2 of D.C. Law 17-299, in subsec. (a), substituted “from a District of Columbia agency with oversight of matters relating to the Commission” for “from the Public Service Commission of the District of Columbia”; and added subsec. (d) to read as follows:

“(d) An amendment to Section 1(a) of this Article shall not affect any member in office on the amendment’s effective date.”.

Section 3 of D.C. Law 17-299 provided: “This act shall apply upon the adoption by the State of Maryland and the Commonwealth of Virginia of the amended language in section 2, and the consent or approval of the United States Congress.”

Section 5(b) of D.C. Law 17-299 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of Washington Metropolitan Area Transit Commission District of Columbia Commissioner Emergency Amendment Act of 2008 (D.C. Act 17-561, October 27, 2008, 55 DCR 12015).

**Legislative history of Law 7-224.** — Law 7-224 was introduced in Council and assigned Bill No. 7-573, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-299 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 11-138.** — Law 11-138, the “Washington Metropolitan Area Transit Regulation Compact Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-443, which was referred to the Committee on Public Services and Regional Authorities. The Bill was adopted on first and second readings on February 6, 1996, and April 2, 1996, respectively. Signed by the Mayor on

April 15, 1996, it was assigned Act No. 11-253 and transmitted to both Houses of Congress for its review. D.C. Law 11-138 became effective on June 6, 1996.

**Legislative history of Law 17-318.** — Law 17-318, the “Washington Metropolitan Area Transit Commission Composition Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-704 which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on November 18, 2008, and December 2, 2008, respectively. Signed by the Mayor on December 22, 2008, it was assigned Act No. 17-622 and transmitted to both Houses of Congress for its review. D.C. Law 17-318 became effective on March 21, 2009.

**Effective date.** — Section 4 of D.C. Law 7-224 provided that this act shall not take effect until a similar act is passed by the Commonwealth of Virginia and the State of Maryland; the General Assembly of the Commonwealth of Virginia and the General Assembly of the State of Maryland are requested to concur in this act of the Council of the District of Columbia by the passage of a similar act; the District of Columbia shall notify the appropriate officials of the Commonwealth of Virginia and the State of Maryland of the passage of this act; and upon the concurrence of this act by the Commonwealth of Virginia and the State of Maryland, the Mayor of the District of Columbia shall issue a proclamation declaring this act valid and effective.

Section 5 of D.C. Law 11-138 provided that §§ 2, 3, and 4 shall take effect after those provisions have been adopted by the District of Columbia, the State of Maryland, and the Commonwealth of Virginia in a manner provided by law therefor, and have received the consent of Congress.

**Editor’s notes.** — Adoption of amendments subject to Congressional consent: Pursuant to § 2 of D.C. Law 11-138, the District of Columbia adopted amendments to Article I of Title I and Articles III, VI, XIII, XIV, and XVI of Title III of the Washington Metropolitan Area Transit Regulation Compact as set forth in §§ 2 and 3 of the act, subject to the consent of Congress thereto and the fulfillment of the conditions in §§ 5 and 6 of the act.

Congressional ratification of Compact amendments: Pub. L. 111-160 ratified D.C. Law 17-318.

## CASE NOTES

### ANALYSIS

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#### **Airport transport service.**

Washington Metropolitan Area Transit Commission had authority to regulate ground transportation of passengers from Dulles airport into city, and it was for Commission to certify number of carriers that it thought would best serve public convenience and necessity, and although Federal Aviation Administration retained authority to enter into contracts with certified carriers wishing to serve Dulles airport, Administration may not deny contract to Commission-certified carrier. D.C. Code §§ 7-1401 to 7-1412, 7-1404, 7-1406; Washington Metropolitan Area Transit Regulation Compact, arts. I, II, XII, D.C. Code following section 1-1410. *Executive Limousine Service, Inc. v. Goldschmidt*, 628 F.2d 115, 1980 U.S. App. LEXIS 18950 (C.A.D.C. 1980).

#### **Capital and securities.**

The Washington Metropolitan Area Transit Commission has authority to precondition further Commission consideration of any new fare increase for carrier upon latter's acquisition of new capital. Washington Metropolitan Area Transit Regulation Compact, Tit. 2, art. 12, §§ 5(a), 6(a), D.C. Code § 1-1410 note and § 1-1410a; Act of July 24, 1956, § 7, 70 Stat. 598. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 466 F.2d 394, 1972 U.S. App. LEXIS 8188 (C.A.D.C. 1972), writ of certiorari denied by 409 U.S. 1086, 93 S.

Ct. 688, 34 L. Ed. 2d 673, 1972 U.S. LEXIS 261 (1972).

Taxpayers of District of Columbia did not have standing to challenge bond referenda in Maryland or Virginia. D.C. Code § 1-1431 note. *Bootery, Inc. v. Washington Metropolitan Area Transit Authority*, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

#### **Certificates of authority.**

Doctrine of res judicata did not bind the Washington Metropolitan Area Transit Commission to interpretations made in its order dismissing applications for public convenience and necessity, where the order expressly stated that one application was being dismissed without prejudice so as to allow renewal of the application should a subsequent Commission determination of its jurisdiction make renewal necessary, thereby leaving open possibility that different determination of jurisdiction might be made in the future. *Baltimore & A. R. Co. v. Washington Metropolitan Area Transit Com. (WMATC)*, 642 F.2d 1365, 1980 U.S. App. LEXIS 13565 (C.A.D.C. 1980).

Under the Washington Metropolitan Area Transit regulation Compact, certificate of public convenience and necessity is necessary for underlying services sought to be availed of to create a through route service by two bus companies, and if Washington Metropolitan Area Transit Commission has reason to doubt adequacy of underlying certificate authority to support through route service, it can suspend joint tariff and initiate an investigation of that adequacy. D.C. Code § 1-1410, art. 12, subds. 4(a, g), 7(b, c). *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 429 F.2d 197, 1970 U.S. App. LEXIS 9123 (C.A.D.C. 1970).

Certificate holders existing prior to Washington Metropolitan Area Transit Regulation Compact were given no exclusive and permanent monopolies, and commission could with due observance of requirements of statute and upon proper findings, grant certificate authority competitive with that held by prior existing certificate holder. Washington Metropolitan Area Transit Regulation Compact, D.C. Code §§ 1-1410 to 1-1416; Act July 24, 1956, 70 Stat. 598; Washington Metropolitan Area Transit Regulation Compact, Title 2, art. 12, § 4(e), D.C. Code § 1-1410 note. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 376 F.2d 765, 1967 U.S. App. LEXIS 7187 (C.A.D.C. 1967), writ of certiorari denied by 389 U.S. 847, 88 S. Ct. 52, 19 L. Ed. 2d 115, 1967 U.S. LEXIS 779 (1967).

#### **Construction and application.**

Statute, which pertained to act centralizing regulation of existing privately owned transit on regional basis, and which provides that all



orders issued by Public Utilities Commission of District of Columbia in force, with respect to transportation or persons subject to act, shall remain in effect and be enforceable under act, did not, absent specific reference to order, which Commission had promulgated without authority to do so, constitute legislative reenactment of order. Compact between Maryland, Virginia and the District of Columbia, art. 2; art. 12, §§ 1, 18(d), 21, D.C. Code § 1-1410 note; D.C. Code § 1-1410. *District of Columbia v. Jones*, 287 A.2d 816, 1972 D.C. App. LEXIS 346 (1972).

#### **Construction with federal law.**

Where United States on behalf of District of Columbia was party to Washington Metropolitan Area Transit Authority compact, general criteria for standing to challenge action under federal statute was applicable in determining standing of plaintiffs to challenge legality of mass transit plan. U.S. Const. art. 1, § 10 cl. 3; D.C. Code §§ 1-1410 note, 1-1431 note. *Bootery, Inc. v. Washington Metropolitan Area Transit Authority*, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

#### **Disposition of carrier assets.**

Capital gains realized on disposition of depreciable assets while in service do not automatically flow to transit company's investors, although extraordinary circumstances may enable them to share therein, and transit company's farepayers have protectable interest in such gains which extends to amount of depreciation which has been charged to farepayers and may extend beyond. Washington Metropolitan Area Transit Regulation Compact, art. 12, § 16 as amended D.C. Code following § 1-1410 and § 1-1410a; Washington Metropolitan Area Transit Authority Compact, Tit. 3, D.C. Code following § 1-1431. *Bebchick v. Washington Metropolitan Area Transit Com.*, 485 F.2d 858, 1973 U.S. App. LEXIS 9116 (C.A.D.C. 1973).

#### **Grandfather rights.**

Grandfather rights in Washington Metropolitan Area Transit Regulation Compact, consented to by Congress, were intended by Congress to accrue from actual, and not potential, operations. Washington Metropolitan Area Transit Regulation Compact, D.C. Code §§ 1-1410 to 1-1416; Act July 24, 1956, 70 Stat. 598. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 376 F.2d 765, 1967 U.S. App. LEXIS 7187 (C.A.D.C. 1967), writ of certiorari denied by 389 U.S. 847, 88 S. Ct. 52, 19 L. Ed. 2d 115, 1967 U.S. LEXIS 779 (1967).

Under Washington Metropolitan Area Transit Regulation Compact, commission could not extend routes, in District, of carriers which had, prior to compact, received authority from joint board to traverse certain streets to termi-

nal points, in a manner competitively adverse to holder of certificate issued prior to compact without taking into account the limiting statutory conditions which involve a concept of public convenience and necessity far beyond that of carriers' passengers. Washington Metropolitan Area Transit Regulation Compact, D.C. Code §§ 1-1410 to 1-1416; Act July 24, 1956, 70 Stat. 598; Washington Metropolitan Area Transit Regulation Compact, Title 2, art. 12, § 4(e), D.C. Code § 1-1410 note. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 376 F.2d 765, 1967 U.S. App. LEXIS 7187 (C.A.D.C. 1967), writ of certiorari denied by 389 U.S. 847, 88 S. Ct. 52, 19 L. Ed. 2d 115, 1967 U.S. LEXIS 779 (1967).

On application for certificate of convenience and necessity to operate buses on sightseeing tours under grandfather clause of statute on ground that applicant, which ordinarily operated limousines, had engaged in some bus operations with chartered buses, Commission could properly consider facts that applicant did not own bus business and did not hold operating certificates from federal and state authorities, along with all other relevant facts. Washington Metropolitan Area Transit Regulation Compact, art. 12, § 4(a), 74 Stat. 1031. *Holiday Tours, Inc. v. Washington Metropolitan Area Transit Com.*, 352 F.2d 672, 1965 U.S. App. LEXIS 4910 (C.A.D.C. 1965).

On application for certificate of convenience and necessity to operate buses on sightseeing tours under grandfather clause of statute on ground that applicant, which ordinarily operated limousines, had engaged in some bus operations with chartered buses, applicant was required to show that it controlled and directed bus transportation to such extent as to make applicant responsible to passengers and to public for bus operations. Washington Metropolitan Area Transit Regulation Compact, art. 12, § 4(a), 74 Stat. 1031. *Holiday Tours, Inc. v. Washington Metropolitan Area Transit Com.*, 352 F.2d 672, 1965 U.S. App. LEXIS 4910 (C.A.D.C. 1965).

On application for certificate of convenience and necessity to operate buses on sightseeing tours under grandfather clause of statute on ground that applicant, which ordinarily operated limousines, had engaged in some bus operations with chartered buses, Commission should make findings whether applicant sold bus tours in its own name and issued its own tickets, whether bus drivers were required to conform to routes, and applicant's responsibility to tour group. Washington Metropolitan Area Transit Regulation Compact, art. 12, § 4(a), 74 Stat. 1031. *Holiday Tours, Inc. v. Washington Metropolitan Area Transit Com.*, 352 F.2d 672, 1965 U.S. App. LEXIS 4910 (C.A.D.C. 1965).

#### **Insolvency and receivership.**

Even if court had jurisdiction to appoint

receiver for transit system, refusal to appoint receiver and dismissal of action seeking such appointment was not an abuse of discretion. D.C. Code §§ 1-1410 note, 1-1410a note. Democratic Cent. Committee v. D. C. Transit System, Inc., 459 F.2d 1178, 1972 U.S. App. LEXIS 10936 (C.A.D.C. 1972).

#### **Joint fares.**

Under Washington Metropolitan Area Transit regulation Compact allowing Washington Metropolitan Area Transit Commission to establish reasonable division of joint fares among interconnecting carriers whenever it finds proposed or existing division to be unreasonable, Commission has power to prevent any undue subsidization of one carrier by carrier with which it is establishing a through route service. D.C. Code § 1-1410, art. 12, subd. 7(c). D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com., 429 F.2d 197, 1970 U.S. App. LEXIS 9123 (C.A.D.C. 1970).

#### **Judicial remedies.**

Washington Metropolitan Area Transit Authority, as agency of District of Columbia, was entitled to stay as matter of right without posting supersedeas bond; judgment against WMATA was lien on its property and WMATA was exempted under local law from posting bond for stay of judgment. Civil Rule 62(d, e); Fed. Rules Civ. Proc. Rule 62(e, f), 18 U.S.C. Hoban v. Washington Metropolitan Area Transit Authority, 841 F.2d 1157, 1988 U.S. App. LEXIS 3662 (C.A.D.C. 1988).

Destruction of business in current form as a provider of bus tours, together with absence of harm to other parties or public interest from issuance of stay, militated in favor of grant of a stay, pending appeal, of permanent injunction restraining operator of tour service from operating a motor coach sight-seeing service without a certificate of public convenience and necessity. Washington Metropolitan Area Transit Com. v. Holiday Tours, Inc., 559 F.2d 841, 1977 U.S. App. LEXIS 12591 (C.A.D.C. 1977).

Where court declared Transit Commission's rate-making order invalid, restitution was proper remedy. Washington Metropolitan Area Transit Regulation Compact, art. 12, §§ 6(a)(3), 16 as amended D.C. Code following § 1-1410 and § 1-1410a; Washington Metropolitan Area Transit Authority Compact, Tit. 3, D.C. Code following § 1-1431. Democratic Cent. Committee v. Washington Metropolitan Area Transit Com., 485 F.2d 786, 1973 U.S. App. LEXIS 9113 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

Where court declared rate-making order invalid, court and Commission should share burden for fashioning relief. Democratic Cent. Committee v. Washington Metropolitan Area

Transit Com., 485 F.2d 786, 1973 U.S. App. LEXIS 9113 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

Overall scheme of Washington Metropolitan Area Transit Regulations Compact suggests that exercise of jurisdiction which might conflict with jurisdiction of Transit Commission is to be sharply circumscribed. D.C. Code §§ 1-1410 note, 1-1410a note. Democratic Cent. Committee v. D. C. Transit System, Inc., 459 F.2d 1178, 1972 U.S. App. LEXIS 10936 (C.A.D.C. 1972).

Under provision of Washington Metropolitan Area Transit Regulation Compact for automatic stay of order or decision of transit commission on filing of application for reconsideration until final action, stay of an order by filing of application for its reconsideration is automatic, immediate and mandatory, and examination of application by commission is related to commission's consideration of application on merits and what otherwise amounts to a filing is effective without such an examination. D.C. Code §§ 1-1410, 1-1410 note, 1-1410a. Black United Front v. Washington Metropolitan Area Transit Com., 436 F.2d 227, 1970 U.S. App. LEXIS 8363 (C.A.D.C. 1970).

Since restitution is not a matter of right, but is *ex gratia*, resting in exercise of discretion, it was within authority of Court of Appeals to direct restitution by transit company in an amount less than whole sum of increased fares collected under invalid Commission order or to deny it altogether, if compelling equitable considerations so dictated; exercise of such discretion would not be a usurpation of administrative powers of Washington Metropolitan Area Transit Commission nor would it be an arbitrary extension of judicial authority. Williams v. Washington Metropolitan Area Transit Com., 415 F.2d 922, 1968 U.S. App. LEXIS 5332 (C.A.D.C. 1968), writ of certiorari denied by 393 U.S. 1081, 89 S. Ct. 860, 21 L. Ed. 2d 773, 1969 U.S. LEXIS 2494 (1969).

#### **Judicial review.**

##### **— In general.**

If Washington Metropolitan Area Transit Commission has exercised its discretion rationally, has made findings supported by record and has applied correct legal standards, it is of no import that conflicts in evidence might conceivably have been resolved differently or other inferences drawn from same record. Compact for Mass Transportation, D.C. Code § 1-1410 note. D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com., 452 F.2d 1321, 1971 U.S. App. LEXIS 6950 (C.A.D.C. 1971).

Authority of Court of Appeals over orders of transit commission ordinarily rests upon filing of application requesting reconsideration and



final decision by commission thereon, but court has jurisdiction to determine whether commission erred in its treatment of tendered application for reconsideration and, if it did, power to take appropriate remedial action. D.C. Code §§ 1-1410, 1-1410 note, 1-1410a. *Black United Front v. Washington Metropolitan Area Transit Com.*, 436 F.2d 227, 1970 U.S. App. LEXIS 8363 (C.A.D.C. 1970).

Where petitioning bus companies made manifest before closing of hearings their position that no approval of Washington Metropolitan Area Transit Commission was required for their proposed through route service, they were not estopped on their application for reconsideration from making such argument. D.C. Code § 1-1410, art. 12, subds. 4(a, b), 5(a), 7(a, c). *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 429 F.2d 197, 1970 U.S. App. LEXIS 9123 (C.A.D.C. 1970).

Court of Appeals must sustain findings of Washington Metropolitan Area Transit Commission when such findings materialize as rational deductions grounded on substantial evidence in the record considered as a whole. *Compact for Mass Transportation*, Tit. 2, art. 12, § 17(a), D.C. Code § 1-1410 note. *Williams v. Washington Metropolitan Area Transit Com.*, 415 F.2d 922, 1968 U.S. App. LEXIS 5332 (C.A.D.C. 1968), writ of certiorari denied by 393 U.S. 1081, 89 S. Ct. 860, 21 L. Ed. 2d 773, 1969 U.S. LEXIS 2494 (1969).

On appeal from orders of Washington Area Transit Commission denying application for certificate of convenience and necessity to operate buses on sightseeing tours under grandfather clause of statute, Court of Appeals could not properly direct commission to make particular finding, but Court of Appeals could and would return case to Commission for reconsideration of its factual conclusion in denying application. *Washington Metropolitan Area Transit Regulation Compact*, art. 12, § 4(a), 74 Stat. 1031. *Holiday Tours, Inc. v. Washington Metropolitan Area Transit Com.*, 352 F.2d 672, 1965 U.S. App. LEXIS 4910 (C.A.D.C. 1965).

#### — Rates and tariffs, judicial review.

For purpose of judicial review, request that Transit Commission postpone further consideration of fare increase until final determination by court, in another case, of credit properly to be allowed bus riders for appreciation in value of transit company's land withdrawn from public use adequately presented claim that Commission, in rate-fixing case, should have considered appreciation in value of certain of transit company's landholdings occurring while lands were in service and prior to their transfer from operating to nonoperating status. *Washington Metropolitan Area Transit Regulation Compact*, art. 12, §§ 5(a), 6(a), 16 as amended D.C. Code following § 1-1410 and § 1-1410a; Wash-

ington Metropolitan Area Transit Authority Compact, Tit. 3, D.C. Code following § 1-1431. *Democratic Cent. Committee v. Washington Metropolitan Area Transit Com.*, 485 F.2d 886, 1973 U.S. App. LEXIS 9111 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

Where issue of failure of Transit Commission to include income from its subsidiaries in its computation of new fares was not presented to Transit Commission in proceeding for establishment of fares, court, on petition to review Commission's order, would not consider claims relating thereto. *Washington Metropolitan Area Transit Regulation Compact*, art. 12, §§ 5(a), 6(a), 16 as amended D.C. Code following § 1-1410 and § 1-1410a; *Washington Metropolitan Area Transit Authority Compact*, Tit. 3, D.C. Code following § 1-1431. *Democratic Cent. Committee v. Washington Metropolitan Area Transit Com.*, 485 F.2d 886, 1973 U.S. App. LEXIS 9111 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

Given the inadequacy of the record and the need for further inquiry, together with the dangers of serious consequences to transit company and the public if no fare increase was granted in the interim, and the undesirability of imposing unreasonably high fares on the public, the ordering of an interim rate increase by Washington Metropolitan Area Transit Commission was within the bounds of its authority and was supported by the findings it made. *Compact for Mass Transportation*, Tit. 2, art. 12, § 6(a) (2), (b), D.C. Code § 1-1410 note. *Payne v. Washington Metropolitan Area Transit Com.*, 415 F.2d 901, 1968 U.S. App. LEXIS 5333 (C.A.D.C. 1968).

#### Nature of commission.

The Washington Metropolitan Area Transit Commission is not a federal agency or instrumentality, but instead is comparable to a state regulatory agency that satisfies the need to coordinate regulatory agencies of three political jurisdictions involved, without regard to their geographic boundaries. D.C. Code § 1-1410 et seq. *Executive Limousine Service, Inc. v. Adams*, 450 F. Supp. 579, 1978 U.S. Dist. LEXIS 17959 (1978), reversed by 628 F.2d 115, 202 U.S. App. D.C. 115, 1980 U.S. App. LEXIS 18950, 15 Av. Cas. (CCH) P18054 (1980).

Washington Metropolitan Area Transit Authority is merely agency of each of signatory parties to compact, including United States on behalf of District of Columbia. D.C. Code §§ 1-1410 note, 1-1431 note. *Bootery, Inc. v. Washington Metropolitan Area Transit Authority*, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

#### Parties and standing.

Mere fact that the Washington Metropolitan



Area Transit Commission did not adopt petitioner's constitutional position did not give petitioner standing to question order deferring further consideration of carrier's application for an increase in fares and order refusing to reconsider, where petitioner, who resisted fare increase solicited by carrier, had no quarrel with this result which was achieved on a different ground from that which petitioner urged, and indeed supported it. *Washington Metropolitan Area Transit Regulation Compact*, Tit. 2, art. 12, § 6(a)(4), D.C. Code § 1-1410 note and § 1-1410a; *Clayton Act*, § 10, 15 U.S.C. § 20; *Interstate Commerce Act*, § 216, 49 U.S.C. § 316. *Powell v. Washington Metropolitan Area Transit Com.*, 466 F.2d 466, 1972 U.S. App. LEXIS 7848 (C.A.D.C. 1972).

Leaseholding business operators who would be dislocated by execution of mass transit plan provided for by Washington Metropolitan Area Transit Authority compact had standing to raise issue of due process under the compact or Constitution of United States; compact itself provided sufficient basis for their standing to review business dislocation provisions of mass transit plan. D.C. Code §§ 1-1410 note, 1-1431 note; 5 U.S.C. § 702; *Housing Act of 1949*, § 2 et seq. as amended 42 U.S.C. § 1441 et seq.; U.S. Const. Amends. 5, 14. *Bootery, Inc. v. Washington Metropolitan Area Transit Authority*, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

## **Powers and duties.**

### **— In general.**

Without stating reasons, Washington Metropolitan Area Transit Commission could not overrule decision in effect for 12 years by asserting jurisdiction over certain special and charter motor carrier operations. *Washington Metropolitan Area Transit Regulation Compact*, Arts. I, II, VIII, XII, §§ 1(a)(4), 4-16, 17(a), 20(a)(2), D.C. Code foll. § 1-1410; *Interstate Commerce Act*, § 208(c), 49 U.S.C. (1976 Ed.) § 308. *Baltimore & A. R. Co. v. Washington Metropolitan Area Transit Com. (WMATC)*, 642 F.2d 1365, 1980 U.S. App. LEXIS 13565 (C.A.D.C. 1980).

Fact that Transit Commission had duty to investigate transit company's efficiency did not mean that Commission had to employ services of consulting firm. *Washington Metropolitan Area Transit Regulation Compact*, art. 12, § 6(a)(3) as amended D.C. Code following § 1-1410 and § 1-1410a. *Democratic Cent. Committee v. Washington Metropolitan Area Transit Com.*, 485 F.2d 886, 1973 U.S. App. LEXIS 9111 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

Washington Metropolitan Area Transit Commission, to which carrier applied for certificate

while making simultaneous motion to dismiss on ground that its operation was exempt from regulation, could not, upon determining that operation was not exempt, grant motion and thus compel carrier to pursue application, since carrier might not wish to seek regulated operation. *Montgomery Charter Service, Inc. v. Washington Metropolitan Area Transit Commission*, 302 F.2d 906, 1962 U.S. App. LEXIS 5267 (C.A.D.C. 1962).

Washington area transit regulation compact does not have authority to promulgate order regulating conduct of passengers. Compact between Maryland, Virginia and the District of Columbia, art. 12, §§ 6, 6(a)(4), 7, 15, D.C. Code § 1-1410 note; D.C. Code §§ 22-1121, 44-207; Code Md.1957, art. 27, § 122; *Code Va.1950*, § 18.1-253.1. *District of Columbia v. Jones*, 287 A.2d 816, 1972 D.C. App. LEXIS 346 (1972).

### **— Other agencies, powers and duties.**

Although Congress has given consent and approval to the formation of the Washington Metropolitan Area Transit Commission in order to insure adequate regulation and improvement of mass transit in the District of Columbia metropolitan area, that general authorization does not impinge on broad power given the administrator of the Federal Aviation Administration. D.C. Code §§ 1-1410 et seq., 7-1401 et seq., 7-1404, 7-1406; U.S. Const. art. 1, § 10, cl. 3. *Executive Limousine Service, Inc. v. Adams*, 450 F. Supp. 579, 1978 U.S. Dist. LEXIS 17959 (1978), reversed by 628 F.2d 115, 202 U.S. App. D.C. 115, 1980 U.S. App. LEXIS 18950, 15 Av. Cas. (CCH) P18054 (1980).

Federal Aviation Administration had exclusive authority to grant carriers the right to perform airline taxi or transfer for hire services from airport that was federal property by virtue of Constitution to other points in the metropolitan area of the District of Columbia. D.C. Code §§ 1-1410 et seq., 7-1401 et seq., 7-1404, 7-1406; U.S. Const. art. 1, § 10, cl. 3; art. 4, § 3, cl. 2. *Executive Limousine Service, Inc. v. Adams*, 450 F. Supp. 579, 1978 U.S. Dist. LEXIS 17959 (1978), reversed by 628 F.2d 115, 202 U.S. App. D.C. 115, 1980 U.S. App. LEXIS 18950, 15 Av. Cas. (CCH) P18054 (1980).

### **— Rates and tariffs, powers and duties.**

In dealing with bus company's application for leave to elevate its fares, Transit Commission was called upon to balance the interest of both company and the public. D.C. Code § 1-1410 note. *Powell v. Washington Metropolitan Area Transit Com.*, 485 F.2d 1080, 1973 U.S. App. LEXIS 9112 (C.A.D.C. 1973).

Transit Commission, in rate-fixing proceeding, was not at liberty to sit back and place responsibility for initiating or carrying through essential inquiries on private parties. Washing-

ton Metropolitan Area Transit Regulation Compact, art. 12, § 6(a)(3) as amended D.C. Code following § 1-1410 and § 1-1410a. *Powell v. Washington Metropolitan Area Transit Com.*, 485 F.2d 1080, 1973 U.S. App. LEXIS 9112 (C.A.D.C. 1973).

Evidence in rate-fixing proceeding for transit company was sufficient to indicate to Transit Commission that it should investigate extent that company would have been able to make profit if there were no regulation at all and extent to which company could earn sufficient return to make it attractive investment at any level of fares which could have been deemed reasonable. *Washington Metropolitan Area Transit Regulation Compact*, art. 12, §§ 3, 6(a) as amended D.C. Code following § 1-1410 and § 1-1410a. *Powell v. Washington Metropolitan Area Transit Com.*, 485 F.2d 1080, 1973 U.S. App. LEXIS 9112 (C.A.D.C. 1973).

— Remedial powers and duties.

Where the Washington Metropolitan Area Transit Commission had found a carrier remiss in its obligations to traveling public, the Washington Metropolitan Area Transit Regulation Compact did not interpose an inexorable barrier to promulgation, within time limits fixed, of an appropriate remedial order, nor did it automatically put proposed new fares into operation upon expiration of period for which they were suspended. *Washington Metropolitan Area Transit Regulation Compact*, Tit. 2, art. 12, §§ 5(a), 6(a), D.C. Code § 1-1410 note and § 1-1410a; Act of July 24, 1956, § 7, 70 Stat. 598. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 466 F.2d 394, 1972 U.S. App. LEXIS 8188 (C.A.D.C. 1972), writ of certiorari denied by 409 U.S. 1086, 93 S. Ct. 688, 34 L. Ed. 2d 673, 1972 U.S. LEXIS 261 (1972).

Rates and tariffs.

— Adequate and sufficient service, rates and tariffs.

There is no requirement that regulation be used to bolster and make profitable a transit company which would not otherwise be successful. *Washington Metropolitan Area Transit Regulation Compact*, art. 12, §§ 3, 6(a) as amended D.C. Code following § 1-1410 and § 1-1410a. *Democratic Cent. Committee v. Washington Metropolitan Area Transit Com.*, 485 F.2d 886, 1973 U.S. App. LEXIS 9111 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

Under the Washington Metropolitan Area Transit Regulation Compact, carrier is entitled to revenues enabling provision of adequate and efficient transportation service, but only to extent needed under honest, economical, and efficient management, and it is not entitled to a

fare raise irrespective of the quality of its operation and service. *Washington Metropolitan Area Transit Regulation Compact*, Tit. 2, art. 12, §§ 5(a), 6(a), D.C. Code § 1-1410 note and § 1-1410a; Act of July 24, 1956, § 7, 70 Stat. 598. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 466 F.2d 394, 1972 U.S. App. LEXIS 8188 (C.A.D.C. 1972), writ of certiorari denied by 409 U.S. 1086, 93 S. Ct. 688, 34 L. Ed. 2d 673, 1972 U.S. LEXIS 261 (1972).

Caliber of the utility's service need not remain a neutral factor in determinations as to its allowable return. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 466 F.2d 394, 1972 U.S. App. LEXIS 8188 (C.A.D.C. 1972), writ of certiorari denied by 409 U.S. 1086, 93 S. Ct. 688, 34 L. Ed. 2d 673, 1972 U.S. LEXIS 261 (1972).

— Due process concerns, rates and tariffs.

Likely effect of a sought-after rate increase upon quality of carrier's service is one of "practical results to the public" to which due process indulges reasonable regulatory consideration. *Washington Metropolitan Area Transit Regulation Compact*, Tit. 2, art. 12, §§ 5(a), 6(a), D.C. Code § 1-1410 note and § 1-1410a; Act of July 24, 1956, § 7, 70 Stat. 598; U.S. Const. Amend. 14. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 466 F.2d 394, 1972 U.S. App. LEXIS 8188 (C.A.D.C. 1972), writ of certiorari denied by 409 U.S. 1086, 93 S. Ct. 688, 34 L. Ed. 2d 673, 1972 U.S. LEXIS 261 (1972).

The Washington Metropolitan Area Transit Commission did not exceed limits of due process when it made a fare raise contingent upon steps calculated to rectify serious deficiencies in service carrier furnished bus riding public, notwithstanding carrier's claim that at existing fares it would be operating at a substantial loss in future and that it had a right to have fares increased to a point which would enable it to earn a fair return. *Washington Metropolitan Area Transit Regulation Compact*, Tit. 2, art. 12, §§ 5(a), 6(a), D.C. Code § 1-1410 note and § 1-1410a; Act of July 24, 1956, § 7, 70 Stat. 598; U.S. Const. Amend. 14. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 466 F.2d 394, 1972 U.S. App. LEXIS 8188 (C.A.D.C. 1972), writ of certiorari denied by 409 U.S. 1086, 93 S. Ct. 688, 34 L. Ed. 2d 673, 1972 U.S. LEXIS 261 (1972).

Ordering bus company to continue operations at a loss would deprive it of property without due process of law. *Democratic Cent. Committee v. Washington Metropolitan Area Transit Com.*, 436 F.2d 233, 1970 U.S. App. LEXIS 8236 (C.A.D.C. 1970).

— In general.

It cannot be said that any transit fare is reasonable no matter how high it was or how



few riders were able to pay fare, so long as transit company was able to show technical excess of gross income over expenses. Washington Metropolitan Area Transit Regulation Compact, art. 12, §§ 3, 6(a) as amended D.C. Code following § 1-1410 and § 1-1410a. Democratic Cent. Committee v. Washington Metropolitan Area Transit Com., 485 F.2d 886, 1973 U.S. App. LEXIS 9111 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

To be reasonable a fare need not be within everyone's budget. Washington Metropolitan Area Transit Regulation Compact, art. 12, §§ 3, 6(a) as amended D.C. Code following § 1-1410 and § 1-1410a. Democratic Cent. Committee v. Washington Metropolitan Area Transit Com., 485 F.2d 886, 1973 U.S. App. LEXIS 9111 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

Fact that transit system was good did not automatically endow with reasonableness any fares necessary to sustain that good system at profit. Democratic Cent. Committee v. Washington Metropolitan Area Transit Com., 485 F.2d 886, 1973 U.S. App. LEXIS 9111 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

Under circumstances, the Washington Metropolitan Area Transit Commission was well within its regulatory province, after diagnosing carrier's financial ills, in requiring carrier to generate new capital and allocate it to debt retirement and bus purchasers as a condition precedent to further consideration of fare increases rather than as a condition to be met concurrently with enjoyment of higher fares. Washington Metropolitan Area Transit Regulation Compact, Tit. 2, art. 12, §§ 5(a), 6(a), D.C. Code § 1-1410 note and § 1-1410a; Act of July 24, 1956, § 7, 70 Stat. 598. D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com., 466 F.2d 394, 1972 U.S. App. LEXIS 8188 (C.A.D.C. 1972), writ of certiorari denied by 409 U.S. 1086, 93 S. Ct. 688, 34 L. Ed. 2d 673, 1972 U.S. LEXIS 261 (1972).

Under the Washington Metropolitan Area Transit Regulation Compact, the transit commission is required, in passing upon a rate application, to consider and weigh not only the interests of the company, including its right to a reasonable return on its investment, but also interests of the public, including the public's right to economical, efficient and adequate transportation services. Washington Metropolitan Area Transit Regulation Compact, Tit. 2, art. 12, §§ 5(a), 6(a), D.C. Code § 1-1410 note and § 1-1410a; Act of July 24, 1956, § 7, 70 Stat. 598. D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com., 466 F.2d 394, 1972 U.S. App. LEXIS 8188 (C.A.D.C.

1972), writ of certiorari denied by 409 U.S. 1086, 93 S. Ct. 688, 34 L. Ed. 2d 673, 1972 U.S. LEXIS 261 (1972).

Washington Metropolitan Area Transit Commission possesses no authority to fix rates for the past; an order prescribing lawful fares to be charged by public utility, being essentially legislative in character, ordinarily speaks only for the future. Compact for Mass Transportation, Tit. 2, art. 12, § 6(a)(2), (b), D.C. Code § 1-1410 note. Williams v. Washington Metropolitan Area Transit Com., 415 F.2d 922, 1968 U.S. App. LEXIS 5332 (C.A.D.C. 1968), writ of certiorari denied by 393 U.S. 1081, 89 S. Ct. 860, 21 L. Ed. 2d 773, 1969 U.S. LEXIS 2494 (1969).

Action of Washington Metropolitan Area Transit Commission in suspending transit company's proposed tariffs for a total period of 150 days from the date of filing was lawful, the issue being governed by the suspension provisions of the Compact and not by those contained in transit company's franchise. Compact for Mass Transportation, Tit. 2, art. 12, §§ 5(e), 6(a) (1, 2), D.C. Code § 1-1410 note. Williams v. Washington Metropolitan Area Transit Com., 415 F.2d 922, 1968 U.S. App. LEXIS 5332 (C.A.D.C. 1968), writ of certiorari denied by 393 U.S. 1081, 89 S. Ct. 860, 21 L. Ed. 2d 773, 1969 U.S. LEXIS 2494 (1969).

Dominant purpose for Washington area transit regulation compact's authority to set rate providing return to shareholders that is reasonable under the circumstances is to insure that public will receive adequate service at fair rates. Compact between Maryland, Virginia and the District of Columbia, art. 12, §§ 6, 6(a)(4), 7, 15 D.C. Code § 1-1410 note. District of Columbia v. Jones, 287 A.2d 816, 1972 D.C. App. LEXIS 346 (1972).

#### — Interim orders, rates and tariffs.

In fashioning interim fare orders, Transit Commission was not required to make full and complete findings that must accompany exercise of its authority to prescribe permanent rates. Act July 24, 1956, § 7, 70 Stat. 598; Washington Metropolitan Area Transit Regulation Compact, art. 12, §§ 5(a), 6(a) as amended D.C. Code following § 1-1410 and § 1-1410a. Democratic Cent. Committee v. Washington Metropolitan Area Transit Com., 485 F.2d 847, 1973 U.S. App. LEXIS 9115 (C.A.D.C. 1973).

Where expiration of period during which transit system's proposed tariffs were suspended came at time when there were major questions still unresolved and when system was threatened with serious financial difficulties, Transit Commission was not required, before it continued its investigation, and as result thereof raised fares, to wait until system filed new tariffs. D.C. Code § 1-1410 note. Yohalem v. Washington Metropolitan Area



Transit Com., 436 F.2d 171, 1970 U.S. App. LEXIS 9323 (C.A.D.C. 1970).

In making an interim rate increase the Washington Metropolitan Area Transit Commission was not required to make the full and complete findings as to margin of return and fare structure that must accompany an exercise of its authority to prescribe permanent rates, but such is not to say that its discretion must not be exercised rationally, nor that it may act without making relevant findings, supported by the record, to sustain its action. *Compact for Mass Transportation*, Tit. 2, art. 12, § 6(b), D.C. Code § 1-1410 note. *Payne v. Washington Metropolitan Area Transit Com.*, 415 F.2d 901, 1968 U.S. App. LEXIS 5333 (C.A.D.C. 1968).

#### — Just rate of return, rates and tariffs.

In establishing fares, Transit Commission was only required to establish fare structure which would give transit company an opportunity to earn just and reasonable net operating income. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 485 F.2d 881, 1973 U.S. App. LEXIS 9114 (C.A.D.C. 1973).

Fact that fare schedule, according to Transit Commission's own calculations, would produce net operating income of something less than that which Commission had determined to be just and reasonable did not render schedule invalid. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 485 F.2d 881, 1973 U.S. App. LEXIS 9114 (C.A.D.C. 1973).

Under the circumstances, Transit Commission which found that existing fares were unjust and which heard conflicting testimony as to whether decrease in passengers resulting from fare increase would result in cost savings, acted properly in ordering temporary fare increase without delving deeper into cost savings. Act July 24, 1956, § 7, 70 Stat. 598; *Washington Metropolitan Area Transit Regulation Compact*, art. 12, §§ 5(a), 6(a) as amended D.C. Code following § 1-1410 and § 1-1410a. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 485 F.2d 881, 1973 U.S. App. LEXIS 9114 (C.A.D.C. 1973).

The Washington Metropolitan Area Transit Commission has both authority and duty to assure that reciprocity with respect to economical, efficient and adequate transportation service and fares which will produce a reasonable return is maintained in practice. *Washington Metropolitan Area Transit Regulation Compact*, Tit. 2, art. 12, §§ 5(a), 6(a), D.C. Code § 1-1410 note and § 1-1410a; Act of July 24, 1956, § 7, 70 Stat. 598. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 466 F.2d 394, 1972 U.S. App. LEXIS 8188 (C.A.D.C. 1972), writ of certiorari denied by 409

U.S. 1086, 93 S. Ct. 688, 34 L. Ed. 2d 673, 1972 U.S. LEXIS 261 (1972).

A method for determining a fair return and reasonable dividend yield which looks solely to a pegging of the market price of regulated company's stock at past levels is manifestly unacceptable. *Williams v. Washington Metropolitan Area Transit Com.*, 415 F.2d 922, 1968 U.S. App. LEXIS 5332 (C.A.D.C. 1968), writ of certiorari denied by 393 U.S. 1081, 89 S. Ct. 860, 21 L. Ed. 2d 773, 1969 U.S. LEXIS 2494 (1969).

Washington Metropolitan Area Transit Commission is required to consider not only the justness and reasonableness of fares charged or proposed to be charged by the carrier, in the sense of meeting overall revenue requirements, but also whether such fares are unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District. *Compact for Mass Transportation*, Tit. 2, art. 12, § 6(a)(2), D.C. Code § 1-1410 note. *Williams v. Washington Metropolitan Area Transit Com.*, 415 F.2d 922, 1968 U.S. App. LEXIS 5332 (C.A.D.C. 1968), writ of certiorari denied by 393 U.S. 1081, 89 S. Ct. 860, 21 L. Ed. 2d 773, 1969 U.S. LEXIS 2494 (1969).

A "just and reasonable rate" is one that assures that all the enterprise's legitimate expenses will be met, and that enables it to cover interest on its debt, pay dividends sufficient to continue to attract investors, and retain sufficient surplus to permit it to finance down payments on new equipment and generally to provide both the form and substance of financial strength and stability. *Williams v. Washington Metropolitan Area Transit Com.*, 415 F.2d 922, 1968 U.S. App. LEXIS 5332 (C.A.D.C. 1968), writ of certiorari denied by 393 U.S. 1081, 89 S. Ct. 860, 21 L. Ed. 2d 773, 1969 U.S. LEXIS 2494 (1969).

#### — Matters considered generally, rates and tariffs.

Transit service is not economical simply because it is honest, mechanically efficient, and as thrifty as it can be under circumstances. *Washington Metropolitan Area Transit Regulation Compact*, art. 12, §§ 3, 6(a) as amended D.C. Code following § 1-1410 and § 1-1410a. *Democratic Cent. Committee v. Washington Metropolitan Area Transit Com.*, 485 F.2d 886, 1973 U.S. App. LEXIS 9111 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

In appraising whether transit operation is economical, account must also be taken of relationship between level of fares and worth of services rendered to riders. *Washington Metropolitan Area Transit Regulation Compact*, art. 12, §§ 3, 6(a) as amended D.C. Code following § 1-1410 and § 1-1410a. *Democratic Cent.*

Committee v. Washington Metropolitan Area Transit Com., 485 F.2d 886, 1973 U.S. App. LEXIS 9111 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

Where in-service appreciation of transit company's below-the-line lands was not depleted by disposition in another rate case, Transit Commission was required to consider appreciation-allocation when it undertook to revise fares and failure to do so rendered order establishing fares fatally defective. Washington Metropolitan Area Transit Regulation Compact, art. 12, §§ 5(a), 6(a), 16 as amended D.C. Code following § 1-1410 and § 1-1410a; Washington Metropolitan Area Transit Authority Compact, Tit. 3, D.C. Code following § 1-1431. Democratic Cent. Committee v. Washington Metropolitan Area Transit Com., 485 F.2d 886, 1973 U.S. App. LEXIS 9111 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

Transit Commission, in rate-fixing proceeding, was under affirmative duty to give due consideration to efficiency of transit company's management and could not fail to investigate such management because of failure of formal parties to produce evidence of bad management. Washington Metropolitan Area Transit Regulation Compact, art. 12, § 6(a)(3) as amended D.C. Code following § 1-1410 and § 1-1410a. Democratic Cent. Committee v. Washington Metropolitan Area Transit Com., 485 F.2d 886, 1973 U.S. App. LEXIS 9111 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

Under the circumstances of rate-fixing case for transit company, Transit Commission erred in refusing to consider whether transit company's investors were compensated for depreciation deficiency by "gain" represented by excess of market value over unrecovered cost of properties transferred to below-the-line status. Democratic Cent. Committee v. Washington Metropolitan Area Transit Com., 485 F.2d 886, 1973 U.S. App. LEXIS 9111 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

Transit Commission in exercising its rate-making function was under obligation to take into account any economy that transit company could effect, and any that were probable from decreased ridership. Act July 24, 1956, § 7, 70 Stat. 598; Washington Metropolitan Area Transit Regulation Compact, art. 12, §§ 5(a), 6(a) as amended D.C. Code following § 1-1410 and § 1-1410a. Democratic Cent. Committee v. Washington Metropolitan Area Transit Com., 485 F.2d 886, 1973 U.S. App. LEXIS 9111 (C.A.D.C. 1973), writ of certiorari denied by 415

U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

#### — Past losses, rates and tariffs.

Bus company could not be permitted to charge fares in future to cover losses in past, even though losses might result from stay subsequently found to have been improvidently awarded. Democratic Cent. Committee v. Washington Metropolitan Area Transit Com., 436 F.2d 233, 1970 U.S. App. LEXIS 8236 (C.A.D.C. 1970).

#### — Reconsideration of orders, rates and tariffs.

Where transit commission published order granting bus fare increases and, due to closing of commission's office for weekend, there was period of approximately six hours between release of order and commencement of its operation during which commission's office was open, two applications for reconsideration became "filed" with commission upon their deposit in commission's office after closing and notification of chairman thereof and third application became "filed" upon notification of applicants' wish to file it and their readiness and willingness to do whatever was necessary to that end, and filing of applications acted under Washington Metropolitan Area Transit Regulation Compact to automatically stay operation of order until commission took final action. D.C. Code §§ 1-1410, 1-1410 note, 1-1410a. Black United Front v. Washington Metropolitan Area Transit Com., 436 F.2d 227, 1970 U.S. App. LEXIS 8363 (C.A.D.C. 1970).

Where motion for reconsideration of decision of Washington Metropolitan Area Transit Commission was filed on 30th day after issuance of order increasing fares charged by bus company, but objector's agent arrived several minutes after closing time of Commission's offices and slid motion under the door where it was seen later by executive director of Commission, Commission's refusal to treat application as timely filed, within its rule requiring that such motion be filed within 30 days after issuance of order, was an abuse of discretion. D.C. Code § 1-1410 note. Yohalem v. Washington Metropolitan Area Transit Com., 412 F.2d 1124, 1969 U.S. App. LEXIS 11965 (C.A.D.C. 1969).

#### — Shareholder rights, rates and tariffs.

Where risk of loss of value of lands was unlikely, farepayers had shouldered significant financial onus with respect to such lands, and transit company investors benefited uniquely in their ownership of lands, farepayers were entitled to all appreciations in value of properties which transit company transferred from operating to nonoperating status and which had appreciated in value while in service. Washington Metropolitan Area Transit Regulation Compact, art. 12, §§ 6(a)(3), 16 as



amended D.C. Code following § 1-1410 and § 1-1410a; Washington Metropolitan Area Transit Authority Compact, Tit. 3, D.C. Code following § 1-1431. Democratic Cent. Committee v. Washington Metropolitan Area Transit Com., 485 F.2d 786, 1973 U.S. App. LEXIS 9113 (C.A.D.C. 1973), writ of certiorari denied by 415 U.S. 935, 94 S. Ct. 1451, 39 L. Ed. 2d 493, 1974 U.S. LEXIS 1374 (1974).

In absence of any inquiry into appropriateness of returns being afforded transit company shareholders in the light of returns being earned by other companies of comparable risk, the particular risks borne by transit company shareholders, and any other relevant factors, Washington Metropolitan Area Transit Commission did not responsibly comply with its statutory mandate to prescribe just and reasonable fares. Williams v. Washington Metropolitan Area Transit Com., 415 F.2d 922, 1968 U.S. App. LEXIS 5332 (C.A.D.C. 1968), writ of certiorari denied by 393 U.S. 1081, 89 S. Ct. 860, 21 L. Ed. 2d 773, 1969 U.S. LEXIS 2494 (1969).

#### **Restitution and refunds.**

Where prior decision in rate case directed that transit company restore all amounts collected as result of illegal fare increase and monies transferred to transit company from court-ordered reserve, and protestants had conceded certain dollar figures for gross revenues sufficient to provide transit with return on its equity capital after allowing for operating expenses and interest on company's debt, Commission in determining conceded return should have multiplied dollar amounts by number of years without substituting for test-year estimates of interest and equity the actual figures which the company logged during each year in question. Washington Metropolitan Area Transit Regulation Compact, art. 12, §§ 5, 6 as amended D.C. Code following § 1-1410 and 1-1410a. Bebchick v. Washington Metropolitan Area Transit Com., 485 F.2d 858, 1973 U.S. App. LEXIS 9116 (C.A.D.C. 1973).

Where Transit Commission found existing bus fares were unjust since transit company had lost \$800,000 in seven months and stood to lose \$3,000,000 more during future annual period, Commission did not exceed its power in granting temporary fare increase which would enable transit company to operate at break-even point even though there was likelihood that company would be required to make refund because of excessive fares collected under prior proceedings. Act July 24, 1956, § 7, 70 Stat. 598; Washington Metropolitan Area Transit Regulation Compact, art. 12, §§ 5(a, e), 6(a) as amended D.C. Code following § 1-1410 and § 1-1410a. Bebchick v. Washington Metropolitan Area Transit Com., 485 F.2d 858, 1973 U.S. App. LEXIS 9116 (C.A.D.C. 1973).

Notwithstanding likelihood that transit company would be obligated to make substantial refunds under decisions affecting other fare orders, Transit Commission which found that existing fares were unjust properly granted temporary increase in fares to enable transit company to operate at break-even point. Act July 24, 1956, § 7, 70 Stat. 598; Washington Metropolitan Area Transit Regulation Compact, art. 12, §§ 5(a, e), 6(a) as amended D.C. Code following § 1-1410 and § 1-1410a. Bebchick v. Washington Metropolitan Area Transit Com., 485 F.2d 858, 1973 U.S. App. LEXIS 9116 (C.A.D.C. 1973).

Procedure to be followed by Transit Commission to assist court in determining amount of restitution to be paid by transit company as a result of declaration of invalidity of rate-fixing order set forth. Washington Metropolitan Area Transit Regulation Compact, art. 12, §§ 6(a)(3), 16 as amended D.C. Code following § 1-1410 and § 1-1410a; Washington Metropolitan Area Transit Authority Compact, Tit. 3, D.C. Code following § 1-1431. Bebchick v. Washington Metropolitan Area Transit Com., 485 F.2d 858, 1973 U.S. App. LEXIS 9116 (C.A.D.C. 1973).

Transfer of transit company from private to public company did not affect private company's obligation to make refund under invalid rate-fixing order. Washington Metropolitan Area Transit Regulation Compact, art. 12, §§ 6(a)(3), 16 as amended D.C. Code following § 1-1410 and § 1-1410a; Washington Metropolitan Area Transit Authority Compact, Tit. 3, D.C. Code following § 1-1431. Bebchick v. Washington Metropolitan Area Transit Com., 485 F.2d 858, 1973 U.S. App. LEXIS 9116 (C.A.D.C. 1973).

#### **Routes and award of routes.**

Washington Metropolitan Area Transit Commission may, in appropriate cases, compel one party to an existing through route service to establish additional through route agreements with other carriers, if that is their only means of developing competing through route services. D.C. Code § 1-1410, art. 12, subd. 7(b). D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com., 429 F.2d 197, 1970 U.S. App. LEXIS 9123 (C.A.D.C. 1970).

Under provisions of Washington Metropolitan Area Transit regulation Compact declaring any carrier's right to establish through routes and joint fares with other carriers and, whenever required by public convenience and necessity, investing Washington Metropolitan Area Transit Commission with power to direct establishment of through route service upon complaint or upon its own initiative, convenience and necessity standard is a limitation on Commission's, as distinct from carriers', power to initiate through route service. D.C. Code § 1-



1410, art. 12, subd. 7(a, b). *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 429 F.2d 197, 1970 U.S. App. LEXIS 9123 (C.A.D.C. 1970).

Under Washington Metropolitan Area Transit Regulation Compact, convenience of passengers was not, under regulatory scheme, sole criterion for extension of routes in a manner competitively adverse to holder of certificate granted prior to compact. *Washington Metropolitan Area Transit Regulation Compact*, D.C. Code §§ 1-1410 to 1-1416; Act July 24, 1956, 70 Stat. 598; *Washington Metropolitan Area Transit Regulation Compact*, Title, 2, art. 12, § 4(e), D.C. Code § 1-1410 note. *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 376 F.2d 765, 1967 U.S. App. LEXIS 7187 (C.A.D.C. 1967), writ of certiorari denied by 389 U.S. 847, 88 S. Ct. 52, 19 L. Ed. 2d 115, 1967 U.S. LEXIS 779 (1967).

#### **Sightseeing services.**

Buses used in sightseeing business were used in transportation and thus were subject to jurisdiction of Washington Metropolitan Area Transit Commission. D.C. Code 1981, § 1-2411. *Banner Sightseeing Company/David E. Klingaman v. Washington Metropolitan Area Transit Com.*, 731 F.2d 993, 1984 U.S. App. LEXIS 23450 (C.A.D.C. 1984).

#### **Sovereign immunity.**

Metropolitan Area Transit Authority compact did not grant Authority's attorneys or any other officials the authority to waive its Eleventh Amendment immunity from suit so that action of Authority's attorneys in removing suit from superior court of District of Columbia to federal district court did not waive Authority's Eleventh Amendment immunity. *U.S.C. Const.Amend. 11. Keenan v. Washington Met-*

*ropolitan Area Transit Authority*, 643 F. Supp. 324, 1986 U.S. Dist. LEXIS 21028 (1986).

#### **Violation of compact.**

Washington Metropolitan Area Transit Commission could not order carrier, which was applying for certificate, to cease unauthorized operations, absent evidence in record that carrier was engaged in such operations, although record contained reference to claimed admission by carrier's president and counsel. *D.C. Code 1961, § 1-1410. Montgomery Charter Service, Inc. v. Washington Metropolitan Area Transit Commission*, 302 F.2d 906, 1962 U.S. App. LEXIS 5267 (C.A.D.C. 1962).

Evidence in prosecution for wilfully, as a carrier, engaging in transportation for hire of persons by motor vehicle without first obtaining certificate of public convenience and necessity supported finding that arrangement between defendants and licensed carrier constituted a lease, not a charter. *Washington Metropolitan Area Transit Regulation Compact*, Title 2, art. 12, § 4(a), D.C. Code § 1-1410 note. *Holiday Tours, Inc. v. District of Columbia*, 234 A.2d 179, 1967 D.C. App. LEXIS 200 (App. 1967).

Evidence in prosecution for wilfully, as a carrier, engaging in transportation for hire of persons by motor vehicle without first obtaining certificate of public convenience and necessity supported finding that arrangement, whereby defendants leased one of their own buses to a licensed carrier and carrier, without taking physical possession of bus, chartered it back to defendants, was a subterfuge rather than a bona fide charter. *Washington Metropolitan Area Transit Regulation Compact*, Title 2, art. 12, § 4(a), D.C. Code § 1-1410 note. *Holiday Tours, Inc. v. District of Columbia*, 234 A.2d 179, 1967 D.C. App. LEXIS 200 (App. 1967).

## **§ 9-1103.02. Congressional consent given to effectuate amendments to Compact.**

The consent of Congress is hereby given to the State of Maryland and the Commonwealth of Virginia to effectuate the following amendments to the Compact, and the Mayor of the District of Columbia is authorized and directed to effectuate said amendments on behalf of the United States for the District of Columbia.

### **ARTICLE I**

There is hereby created the Washington Metropolitan Area Transit District, hereinafter referred to as Metropolitan District, which shall embrace the District of Columbia, the cities of Alexandria and Falls Church, the counties of Arlington and Fairfax, and political subdivisions of the State of Virginia located within those counties and that portion of Loudoun County, Virginia,

occupied by the Dulles International Airport and the counties of Montgomery and Prince Georges, in the State of Maryland and political subdivisions of the State of Maryland located within said counties, and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the other boundaries of the combined area of said counties, cities and airport.

## ARTICLE XII

### Transportation Covered

1.(a) This subchapter shall apply to the transportation for hire by any carrier of persons between any points in the Metropolitan District and to the persons engaged in rendering or performing such transportation service, except —

(1) transportation by water;

(2) transportation by the Federal Government, the signatories hereto, or any political subdivision thereof;

(3) transportation by motor vehicles employed solely in transporting school children and teachers to or from public or private schools;

(4) transportation performed in the course of an operation over a regular route, between a point in the Metropolitan District and a point outside the Metropolitan District, including transportation between points on such regular route within the Metropolitan District as to interstate and foreign commerce, if authorized by certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission, and any carrier whose only transportation within the Metropolitan District is within this exemption shall not be deemed to be a carrier subject to the Compact; provided, however, if the primary function of a carrier's entire operations is the furnishing of mass transportation service within the Washington Metropolitan Area Transit District, then such operations in the Metropolitan District shall be subject to the jurisdiction of the Commission;

(5) transportation performed by a common carrier by railroad subject to Part I of the Interstate Commerce Act, as amended.

(b) The provisions of this Title II shall not apply to transportation as specified in this section solely within the Commonwealth of Virginia and to the activities of persons engaged in such transportation, nor shall any provision of this Title II be construed to infringe the exercise of any power or the discharge of any duties conferred or imposed upon the State Corporation Commission of the Commonwealth of Virginia by the Virginia Constitution.

(c) Notwithstanding the provisions of paragraph (a) of this section, this Act shall apply to taxicabs and other vehicles used in performing a bona fide taxicab service having a seating capacity of eight passengers or less in addition to the driver thereof with respect only to (i) the rate or charges for transportation from one signatory to another within the confines of the Metropolitan District, and (ii) requirements for minimum insurance coverage.

### Annual Report of the Commission

24. The Commission shall make an annual report for each fiscal year ending



June thirtieth, to the Governor of Virginia and the Governor of Maryland, and to the Board of Commissioners of the District of Columbia as soon as practicable after June thirtieth, but no later than the 1st day of January of each year, which shall contain, in addition to a report of the work performed under this subchapter, such other information and recommendations concerning passenger transportation within the Metropolitan District, as the Commission deems advisable.

(Oct. 9, 1962, 76 Stat. 765, Pub. L. 87-767, § 1.)

**Section references.** — This section is referenced in § 9-1107.01.

**Prior Codifications.** — 1981 Ed., § 1-2412. 1973 Ed., § 1-1410a.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CASE NOTES

### Airport ground transportation.

If second Washington Airport Act and Washington Metropolitan Area Transit Commission compact are capable of coexistence, it is duty of courts, absent a clearly expressed congressional intention to contrary, to regard each as effective, and thus statutory scheme must be construed in manner that recognizes roles that both Federal Aviation Administration and Commission are to play in managing transportation at Dulles airport. D.C. Code §§ 7-1401 to 7-1412, 7-1404, 7-1406; Washington Metropolitan Area Transit Regulation Compact, arts. I, II, XII, D.C. Code following section 1-1410. *Executive Limousine Service, Inc. v. Goldschmidt*, 628 F.2d 115, 1980 U.S. App. LEXIS 18950 (C.A.D.C. 1980).

Washington Metropolitan Area Transit Commission had authority to regulate ground transportation of passengers from Dulles airport into city, and it was for Commission to certify number of carriers that it thought would best serve public convenience and necessity, and although Federal Aviation Administration retained authority to enter into contracts with certified carriers wishing to serve Dulles air-

port, Administration may not deny contract to Commission-certified carrier. D.C. Code §§ 7-1401 to 7-1412, 7-1404, 7-1406; Washington Metropolitan Area Transit Regulation Compact, arts. I, II, XII, D.C. Code following section 1-1410. *Executive Limousine Service, Inc. v. Goldschmidt*, 628 F.2d 115, 1980 U.S. App. LEXIS 18950 (C.A.D.C. 1980).

Public hearings preceded carrier certification by Washington Metropolitan Area Transit Commission, and if Federal Aviation Administration thought that only one carrier should provide ground transportation to Dulles airport, Administration may appear before Commission to oppose certification of additional carriers, but, under Congress' allocation of regulatory powers, ultimate decision belonged to Commission, and Administration may not render that decision nugatory by refusing to contract with certified carrier. D.C. Code §§ 7-1401 to 7-1412, 7-1404, 7-1406; Washington Metropolitan Area Transit Regulation Compact, arts. I, II, XII, D.C. Code following section 1-1410. *Executive Limousine Service, Inc. v. Goldschmidt*, 628 F.2d 115, 1980 U.S. App. LEXIS 18950 (C.A.D.C. 1980).



**§ 9-1103.03. Duties of Mayor; appropriations authorized; Congressional approval required for Compact amendments.**

The Mayor of the District of Columbia is authorized and directed to enter into and execute on behalf of the United States for the District of Columbia a Compact substantially as set forth above with the States of Virginia and Maryland and is further authorized and directed to carry out and effectuate the terms and provisions of said Compact, and there are hereby authorized to be appropriated such funds as are necessary to carry out the obligations of the District of Columbia in accordance with the terms of the said Compact; provided, that the said Mayor shall not adopt any amendment to the said Compact for the District of Columbia under the provisions of § 1 of Article IX of the Compact unless the said amendment has had the consent or approval of the Congress.

(Sept. 15, 1960, 74 Stat. 1050, Pub. L. 86-794, § 2.)

**Prior Codifications.** — 1981 Ed., § 1-2413. 1973 Ed., § 1-1411.

**References in text.** — The reference to “§ 1 of Article IX of the Compact,” found in the proviso, was made prior to the revision of the Compact. The information is now found in § 1 of Article VIII of the Compact.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

**§ 9-1103.04. Effect of Compact on other laws.**

Upon the effective date of the Compact and so long thereafter as the Compact remains effective, the applicability of the laws of the United States, and the rules, regulations, and orders promulgated thereunder, relating to or affecting transportation under the Compact and to the persons engaged therein, including those provisions of § 50-2201.03(e), relating to the powers of the Public Service Commission of the District of Columbia and the Joint Board created under such section, is suspended, except as otherwise specified in the Compact, to the extent that such laws, rules, regulations, and orders are inconsistent with or in duplication of the provisions of the Compact; provided, that upon the termination of the Compact, the suspension of such laws, rules, regulations, and orders, if not theretofore repealed, shall terminate and such laws, rules, regulations, and orders shall thereupon again become applicable and legally effective without further legislative or administrative action; provided further, that nothing in this subchapter or in the Compact shall affect the normal and ordinary police powers of the signatories and of the political subdivisions thereof and of the Director of the National Park Service with

respect to the regulation of vehicles, control of traffic and use of streets, highways, and other vehicular facilities; provided further, that nothing in this subchapter or in the Compact consented to and approved hereby shall impair or affect the rights, duties, and obligations created by the Act of July 24, 1956 (70 Stat. 598, ch. 669), granting a franchise to D.C. Transit System, Inc.; provided further, that the term "public interest" as used in § 3(c) of Article XII, Title II of the Compact shall be deemed to include, among other things, the interest of the carrier employees affected; and provided further, that nothing herein shall be deemed to render inapplicable any laws of the United States providing benefits for the employees of any carrier subject to this Compact or relating to the wages, hours, and working conditions of employees of any carrier, or to collective bargaining between the carriers and said employees, or to the rights to self-organization, including, but not limited to, the Labor-Management Relations Act, 1947, as amended (29 U.S.C. § 141 et seq.), and the Fair Labor Standards Act, as amended (29 U.S.C. § 201 et seq.). Notwithstanding any provision of this section to the contrary, the jurisdiction of the Public Service Commission of the District of Columbia and of the Interstate Commerce Commission over all carriers and persons subject to the provisions of the Washington Metropolitan Area Transit Regulation Compact are hereby transferred, as and to the extent provided therein, to the Washington Metropolitan Area Transit Commission.

(Sept. 15, 1960, 74 Stat. 1050, Pub. L. 86-794, § 3; Aug. 30, 1964, 78 Stat. 634, Pub. L. 88-503, § 21.)

**Prior Codifications.** — 1981 Ed., § 1-2414.  
1973 Ed., § 1-1412.

**Editor's notes.** — This section was enacted prior to revision of the Compact. References to specific sections of the Compact have been updated following revision of the Compact.

Joint Board abolished: The Joint Board, referred to in the first sentence, was abolished by § 503(c) of Reorganization Plan No. 3 of 1967.

## CASE NOTES

### ANALYSIS

Construction with federal law.  
Construction with other district laws.  
In general.

### Construction with federal law.

Washington Metropolitan Area Transit Commission had authority to regulate ground transportation of passengers from Dulles airport into city, and it was for Commission to certify number of carriers that it thought would best serve public convenience and necessity, and although Federal Aviation Administration retained authority to enter into contracts with certified carriers wishing to serve Dulles airport, Administration may not deny contract to Commission-certified carrier. D.C. Code §§ 7-1401 to 7-1412, 7-1404, 7-1406; Washington Metropolitan Area Transit Regulation Compact, arts. I, II, XII, D.C. Code following section

1-1410. *Executive Limousine Service, Inc. v. Goldschmidt*, 628 F.2d 115, 1980 U.S. App. LEXIS 18950 (C.A.D.C. 1980).

Although Congress has given consent and approval to the formation of the Washington Metropolitan Area Transit Commission in order to insure adequate regulation and improvement of mass transit in the District of Columbia metropolitan area, that general authorization does not impinge on broad power given the administrator of the Federal Aviation Administration. D.C. Code §§ 1-1410 et seq., 7-1401 et seq., 7-1404, 7-1406; U.S. Const. art. 1, § 10, cl. 3. *Executive Limousine Service, Inc. v. Adams*, 450 F. Supp. 579, 1978 U.S. Dist. LEXIS 17959 (1978), reversed by 628 F.2d 115, 202 U.S. App. D.C. 115, 1980 U.S. App. LEXIS 18950, 15 Av. Cas. (CCH) P18054 (1980).

Federal Aviation Administration had exclusive authority to grant carriers the right to perform airline taxi or transfer for hire services



from airport that was federal property by virtue of Constitution to other points in the metropolitan area of the District of Columbia. D.C. Code §§ 1-1410 et seq., 7-1401 et seq., 7-1404, 7-1406; U.S. Const. art. 1, § 10, cl. 3; art. 4, § 3, cl. 2. *Executive Limousine Service, Inc. v. Adams*, 450 F. Supp. 579, 1978 U.S. Dist. LEXIS 17959 (1978), reversed by 628 F.2d 115, 202 U.S. App. D.C. 115, 1980 U.S. App. LEXIS 18950, 15 Av. Cas. (CCH) P18054 (1980).

**Construction with other district laws.**

If second Washington Airport Act and Washington Metropolitan Area Transit Commission compact are capable of coexistence, it is duty of courts, absent a clearly expressed congressional intention to contrary, to regard each as effective, and thus statutory scheme must be construed in manner that recognizes roles that both Federal Aviation Administration and Commission are to play in managing transportation at Dulles airport. D.C. Code §§ 7-1401 to 7-1412, 7-1404, 7-1406; Washington Metropolitan Area Transit Regulation Compact, arts. I,

II, XII, D.C. Code following section 1-1410. *Executive Limousine Service, Inc. v. Goldschmidt*, 628 F.2d 115, 1980 U.S. App. LEXIS 18950 (C.A.D.C. 1980).

Bus drivers who were engaged in interstate commerce and who regularly spent more than 50% of their work week in District of Columbia were entitled to benefits of District of Columbia Minimum Wage Act. D.C. Code § 36-401 et seq. *Williams v. W. M. A. Transit Co.*, 472 F.2d 1258, 1972 U.S. App. LEXIS 8676 (C.A.D.C. 1972).

**In general.**

The Washington Metropolitan Area Transit Commission is not a federal agency or instrumentality, but instead is comparable to a state regulatory agency that satisfies the need to coordinate regulatory agencies of three political jurisdictions involved, without regard to their geographic boundaries. D.C. Code § 1-1410 et seq. *Executive Limousine Service, Inc. v. Adams*, 450 F. Supp. 579, 1978 U.S. Dist. LEXIS 17959 (1978), reversed by 628 F.2d 115, 202 U.S. App. D.C. 115, 1980 U.S. App. LEXIS 18950, 15 Av. Cas. (CCH) P18054 (1980).

**§ 9-1103.05. Congressional consent conditioned on nonuse of Compact to break a lawful strike.**

The consent and approval of Congress set forth in § 9-1103.01 is given on the express condition that § 13(a) of Article XI and § 3(d) of Article XII of such Compact shall not be used to break a lawful strike by the employees of any carrier authorized to provide service pursuant to such Compact.

(Sept. 15, 1960, 74 Stat. 1050, Pub. L. 86-794, § 4.)

**Prior Codifications.** — 1981 Ed., § 1-2415.  
1973 Ed., § 1-1413.

**Editor's notes.** — This section was enacted

prior to revision of the Compact. References to specific sections of the Compact have been updated following revision of the Compact.

**§ 9-1103.06. Jurisdiction to review orders of Washington Metropolitan Area Transit Commission and to enforce Compact.**

Jurisdiction is hereby conferred:

(1) Upon the United States Court of Appeals for the Fourth Circuit and the United States Court of Appeals for the District of Columbia Circuit, respectively, to review orders of the Washington Metropolitan Area Transit Commission as provided by § 5, Article XII, Title II, of the Washington Metropolitan Area Transit Regulation Compact; and

(2) Upon the United States district courts to enforce the provisions of said Title II as provided in § 6, Article XII, Title II, of said Compact.

(Sept. 15, 1960, 74 Stat. 1051, Pub. L. 86-794, § 6.)

**Prior Codifications.** — 1981 Ed., § 1-2416.

1973 Ed., § 1-1415.



**Editor's notes.** — This section was enacted prior to revision of the Compact. References to

specific sections of the Compact have been updated following revision of the Compact.

### CASE NOTES

#### **Jurisdiction.**

Concurrent jurisdiction over charge, filed before February 1, 1971, of boarding motor bus for hire without paying fare or presenting valid transfer in violation of Public Utilities Commission order adopted by Metropolitan Area Transit Compact, which provided penalty of fine only, was vested in Court of General Sessions,

notwithstanding statute conferring jurisdiction upon United States district courts to enforce provisions of the Compact, in view of statute conferring jurisdiction upon Court of General Sessions over offenses punishable by fine only. D.C. Code §§ 1-1410, 1-1415, 11-963(a). *District of Columbia v. Solomon*, 275 A.2d 204, 1971 D.C. App. LEXIS 287 (1971).

## **§ 9-1103.07. Reservation of right to alter, amend, or repeal subchapter; submission of periodic reports to Congress; scope of Congressional inquiry.**

(a) The right to alter, amend, or repeal this subchapter is hereby expressly reserved.

(b) The Washington Metropolitan Area Transit Commission shall submit to Congress copies of all periodic reports made by that Commission to the Governors, the Mayor of the District of Columbia and/or the legislatures of the compacting States.

(c) The Congress or any committee thereof shall have the right to require the disclosure and furnishing of such information by the Washington Metropolitan Area Transit Commission as is deemed appropriate by the Congress or any of its committees. Further, Congress or any of its committees shall have access to all books, records and papers of the Washington Metropolitan Area Transit Commission as well as the right of inspection of any facility use, owned, leased, regulated or under the control of said Commission.

(Sept. 15, 1960, 74 Stat. 1051, Pub. L. 86-794, § 7.)

**Cross references.** — National capital region transportation, adopted regional system, federal contributions, limitations, appropriations, see § 9-1111.02.

**Prior Codifications.** — 1981 Ed., § 1-2417. 1973 Ed., § 1-1416.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

*Subchapter III. Rail Rapid Transit.***§ 9-1105.01. Statement of findings and purpose.**

To further the objectives of subchapter I of this chapter, the Congress hereby finds and declares that:

(1) A coordinated system of rail rapid transit, bus transportation service, and highways is essential in the National Capital region for the satisfactory movement of people and goods, the alleviation of present and future traffic congestion, the economic welfare and vitality of all parts of the region, the effective performance of the functions of the United States government located within the region, the orderly growth and development of the region, the comfort and convenience of the residents and visitors to the region, and the preservation of the beauty and dignity of the Nation's Capital;

(2) Such a coordinated system should be developed cooperatively by the federal, state, and local governments of the National Capital region as part of a balanced system of transportation utilizing to their best advantage highways and other transit facilities, and the cost of improved mass transit facilities should be financed, as far as possible, by persons using or benefiting from such facilities and their remaining costs should be shared equitably among the federal, state, and local governments;

(3) Various steps have already been taken to bring such a system into being, including the preparation by the Washington Metropolitan Area Transit Authority (hereinafter referred to as the "Authority") of a transit development program for the National Capital region, and authorization of the negotiation by the Mayor of the District of Columbia, the State of Maryland and the Commonwealth of Virginia of an interstate compact to establish a regional transportation organization under the terms of §§ 1-1408 and 1-1409, and approval by the Congress of the Washington Metropolitan Area Transit Regulation Compact (§§ 9-1103.01 and 9-1103.02.) Nothing in this subchapter shall be construed as altering or amending the Washington Metropolitan Area Transit Regulation Compact;

(4) While the negotiation of an interstate compact to establish a regional transportation organization has not been completed, and plans for the development of improved mass transit facilities throughout the National Capital region are still being developed, the Authority has prepared a satisfactory transit development program for the establishment, principally within the District of Columbia, of a system of rail rapid transit lines and related facilities which are capable of being extended to serve other parts of the region, and the design and construction of such facilities should now proceed as contemplated by subchapter I of this chapter;

(5) In developing such improved transportation facilities, it is necessary that the operation of rail rapid transit and bus services be coordinated, and that the creation and operation of public rail rapid transit facilities be accomplished with the least possible adverse effect on the private companies transporting persons in the National Capital region, on their employees, and on persons, families and businesses displaced by the construction of such facilities.

(Sept. 8, 1965, 79 Stat. 663, Pub. L. 89-173, § 2.)

**Cross references.** — Blind and physically disabled persons, equal access to public conveyances and accommodations, see § 7-1002.

**Prior Codifications.** — 1981 Ed., § 1-2421. 1973 Ed., § 1-1421.

**References in text.** — Sections 1-1408 and 1-1409, referred to in the first sentence of paragraph (3) of this section, were repealed by the Act of December 9, 1969, 83 Stat. 322, Pub. L. 91-143, § 8(a)(1).

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of

Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-1105.02. Appropriations authorized.

The cost of designing, engineering, constructing, and equipping the facilities of the adopted regional system (as defined in § 9-1111.01(1)) shall be financed in part by the federal and District of Columbia governments, as follows:

(1) To finance the United States portion there is hereby authorized to be appropriated to the Authority an amount not to exceed \$100,000,000, which shall remain available until expended;

(2) To finance the District of Columbia portion there is hereby authorized to be appropriated to the Authority out of the General Fund of the District of Columbia an amount not to exceed \$50,000,000, which shall remain available until expended.

(Sept. 8, 1965, 79 Stat. 665, Pub. L. 89-173, § 5(a); Dec. 9, 1969, 83 Stat. 323, Pub. L. 91-143, § 8(b).)

**Cross references.** — Persons displaced by programs and projects of Washington Metropolitan Area Transit Authority, eligibility for relocation payments and assistance, see § 6-333.01.

**Section references.** — This section is referenced in § 9-1107.09, § 9-1111.02, and § 9-1111.03.

**Prior Codifications.** — 1981 Ed., § 1-2422. 1973 Ed., § 1-1424.

## § 9-1105.03. Severability.

If any part of this subchapter is declared unconstitutional the constitutionality of no other part of the subchapter shall be affected thereby.

(Sept. 8, 1965, 79 Stat. 666, Pub. L. 89-173, § 8.)

**Cross references.** — Whistleblower protection for other employees, “instrumentality” defined, see § 2-223.01.

**Prior Codifications.** — 1981 Ed., § 1-2423. 1973 Ed., § 1-1426.



*Subchapter IV. Washington Metropolitan Area Transit  
Authority Compact.*

**§ 9-1107.01. Congressional consent given to Compact amendment.**

The Congress hereby consents to, adopts and enacts for the District of Columbia an amendment to the Washington Metropolitan Area Transit Regulation Compact, for which Congress heretofore has granted its consent (§§ 9-1103.01 and 9-1103.02) by adding thereto Title III, known as the Washington Metropolitan Area Transit Authority Compact (referred to in this subchapter as Title III), substantially as set out below.

TITLE III

ARTICLE I

DEFINITIONS

1. As used in this Title, the following words and terms shall have the following meanings, unless the context clearly requires a different meaning:

(a) "Board" means the Board of Directors of the Washington Metropolitan Area Transit Authority;

(b) "Director" means a member of the Board of Directors of the Washington Metropolitan Area Transit Authority;

(c) "Private transit companies" and "private carriers" means corporations, persons, firms or associations rendering transit service within the Zone pursuant to a certificate of public convenience and necessity issued by the Washington Metropolitan Area Transit Commission or by a franchise granted by the United States or any signatory party to this Title;

(d) "Signatory" means the State of Maryland, the Commonwealth of Virginia and the District of Columbia;

(e) "State" includes District of Columbia;

(f) "Transit facilities" means all real and personal property located in the Zone, necessary or useful in rendering transit service between points within the Zone, by means of rail, bus, water or air and any other mode of travel, including without limitation, tracks, rights of way, bridges, tunnels, subways, rolling stock for rail, motor vehicle, marine and air transportation, stations, terminals and ports, areas for parking and all equipment, fixtures, buildings and structures and services incidental to or required in connection with the performance of transit service;

(g) "Transit services" means the transportation of persons and their packages and baggage by means of transit facilities between points within the Zone including the transportation of newspapers, express, and mail between such points, and charter service which originates within the Zone but does not include taxicab service or individual-ticket-sales sightseeing operations;

(h) "Transit Zone" or "Zone" means the Washington Metropolitan Area Transit Zone created by and described in section 3, as well as any additional areas that may be added pursuant to section 83(a); and

(i) "WMATC" means Washington Metropolitan Area Transit Commission.

## ARTICLE II

### PURPOSE AND FUNCTIONS

2. The purpose of this Title is to create a regional instrumentality, as a common agency of each signatory party, empowered, in the manner hereinafter set forth, (1) to plan, develop, finance and cause to be operated improved transit facilities, in coordination with transportation and general development planning for the Zone, as part of a balanced regional system of transportation, utilizing to their best advantage the various modes of transportation, (2) to coordinate the operation of the public and privately owned or controlled transit facilities, to the fullest extent practicable, into a unified regional transit system without unnecessary duplicating service, and (3) to serve such other regional purposes and to perform such other regional functions as the signatories may authorize by appropriate legislation.

## ARTICLE III

### ORGANIZATION AND AREA

#### Washington Metropolitan Area Transit Zone

3. There is hereby created the Washington Metropolitan Area Transit Zone which shall embrace the District of Columbia, the cities of Alexandria, Falls Church, and Fairfax, the counties of Arlington, Fairfax, and Loudoun and political subdivisions of the Commonwealth of Virginia located within those counties, and the counties of Montgomery and Prince George's in the State of Maryland and political subdivisions of the State of Maryland located in said counties.

#### Washington Metropolitan Area Transit Authority

4. There is hereby created, as an instrumentality and agency of each of the signatory parties hereto, the Washington Metropolitan Area Transit Authority which shall be a body corporate and politic, and which shall have the powers and duties granted herein and such additional powers as may hereafter be conferred upon it pursuant to law.

#### Board Membership

5.(a) The Authority shall be governed by a Board of 8 Directors consisting of 2 Directors for each Signatory, and 2 for the federal government (one of whom shall be a regular passenger and customer of the bus or rail service of the Authority). For Virginia, the Directors shall be appointed by the Northern Virginia Transportation Commission; for the District of Columbia, by the Council of the District of Columbia; for Maryland, by the Washington Suburban Transit Commission; and for the federal government, by the Administrator of General Services. For Virginia and Maryland, the Directors shall be

appointed from among the members of the appointing body, except as otherwise provided herein, and shall serve for a term coincident with their term on the appointing body. A Director for a Signatory may be removed or suspended from office only as provided by the law of the Signatory from which he was appointed. The nonfederal appointing authorities shall also appoint an alternate for each Director. In addition, the Administrator of General Services shall also appoint 2 nonvoting members who shall serve as the alternates for the federal Directors. An alternate Director may act only in the absence of the Director for whom he has been appointed as an alternate, except that, in the case of the District of Columbia where only one Director and his alternate are present, such alternate may act on behalf of the absent Director. Each alternate, including the federal nonvoting Directors, shall serve at the pleasure of the appointing authority. In the event of a vacancy in the Office of Director or alternate, it shall be filled in the same manner as an original appointment.

(b) Before entering upon the duties of his office each Director and alternate director shall take and subscribe to the following oath (or affirmation) of office or any such other oath or affirmation, if any, as the Constitution or laws of the Government he represents shall provide:

“I, ....., hereby solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and Laws of the state or political jurisdiction from which I was appointed as a director (alternate director) of the Board of Washington Metropolitan Area Transit Authority and will faithfully discharge the duties of the office upon which I am about to enter.”

#### Compensation of Directors and Alternates

6. Members of the Board and alternates shall serve without compensation but may be reimbursed for necessary expenses incurred as an incident to the performance of their duties.

#### Organization and Procedure

7. The Board shall provide for its own organization and procedure. It shall organize annually by the election of a Chairman and Vice-Chairman from among its members. Meetings of the Board shall be held as frequently as the Board deems that the proper performance of its duties requires and the Board shall keep minutes of its meetings. The Board shall adopt rules and regulations governing its meeting, minutes and transactions.

#### Quorum and Actions by the Board

8.(a) Four Directors or alternates, consisting of at least one Director or alternate appointed from each Signatory, shall constitute a quorum and no action by the Board shall be effective unless a majority of the Board present and voting, which majority shall include at least one Director or alternate from each Signatory, concur therein; provided, however, that a plan of financing may



be adopted or a mass transit plan adopted, altered, revised, or amended by the unanimous vote of the Directors representing any two Signatories.

(b) The actions of the Board shall be expressed by motion or resolution. Actions dealing solely with internal management of the Authority shall become effective when directed by the Board, but no other action shall become effective prior to the expiration of thirty days following its adoption; provided, however, that the Board may provide for the acceleration of any action upon a finding that such acceleration is required for the proper and timely performance of its functions.

### Officers

9.(a) The officers of the Authority, none of whom shall be members of the Board, shall consist of a general manager, a secretary, a treasurer, a comptroller, an inspector general, and a general counsel and such other officers as the Board may provide. Except for the office of general manager, inspector general, and comptroller, the Board may consolidate any of such other offices in one person. All such officers shall be appointed and may be removed by the Board, shall serve at the pleasure of the Board and shall perform such duties and functions as the Board shall specify. The Board shall fix and determine the compensation to be paid to all officers and, except for the general manager who shall be a full-time employee, all other officers may be hired on a full-time or part-time basis and may be compensated on a salary or fee basis, as the Board may determine. All employees and such officers as the Board may designate shall be appointed and removed by the general manager under such rules of procedure and standards as the Board may determine.

(b) The general manager shall be the chief administrative officer of the Authority and, subject to policy direction by the Board, shall be responsible for all activities of the Authority.

(c) The treasurer shall be the custodian of the funds of the Authority, shall keep an account of all receipts and disbursements and shall make payments only upon warrants duly and regularly signed by the Chairman or Vice-Chairman of the Board, or other person authorized by the Board to do so, and by the secretary or general manager; provided, however, that the Board may provide that warrants not exceeding such amounts or for such purposes as may from time to time be specified by the Board may be signed by the general manager or by persons designated by him.

(d) The inspector general shall report to the Board and head the Office of the Inspector General, an independent and objective unit of the Authority that conducts and supervises audits, program evaluations, and investigations relating to Authority activities; promotes economy, efficiency, and effectiveness in Authority activities; detects and prevents fraud and abuse in Authority activities; and keeps the Board fully and currently informed about deficiencies in Authority activities as well as the necessity for and progress of corrective action.

(e) An oath of office in the form set out in Section 5(b) of this Article shall be taken, subscribed and filed with the Board by all appointed officers.

(f) Each Director, officer and employees specified by the Board shall give such bond in such form and amount as the Board may require, the premium for which shall be paid by the Authority.

#### Conflict of Interests

10.(a) No Director, officer or employee shall:

(1) be financially interested, either directly or indirectly, in any contract, sale, purchase, lease or transfer of real or personal property to which the Board or the Authority is a party;

(2) in connection with services performed within the scope of his official duties, solicit or accept money or any other thing of value in addition to the compensation or expenses paid to him by the Authority;

(3) offer money or any thing of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the authority.

(b) Any Director, officer or employee who shall willfully violate any provision of this section shall, in the discretion of the Board, forfeit his office or employment.

(c) Any contract or agreement made in contravention of this section may be declared void by the Board.

(d) Nothing in this section shall be construed to abrogate or limit the applicability of any federal or state law which may be violated by any action prescribed by this section.

### ARTICLE IV

#### PLEDGE OF COOPERATION

11. Each Signatory pledges to each other faithful cooperation in the achievement of the purposes and objects of this Title.

### ARTICLE V

#### GENERAL POWERS

##### Enumeration

12. In addition to the powers and duties elsewhere described in this Title, and except as limited in this Title, the Authority may:

(a) Sue and be sued;

(b) Adopt and use a corporate seal and alter the same at pleasure;

(c) Adopt, amend, and repeal rules and regulations respecting the exercise of the powers conferred by this Title;

(d) Construct, acquire, own, operate, maintain, control, sell and convey real and personal property and any interest therein by contract, purchase, condemnation, lease, license, mortgage or otherwise but all of said property shall be located in the Zone and shall be necessary or useful in rendering transit service or in activities incidental thereto;

(e) Receive and accept such payments, appropriations, grants, gifts, loans, advances and other funds, properties and services may be transferred or made

available to it by any signatory party, any political subdivision or agency thereof, by the United States, or by any agency thereof, or by any other public or private corporation or individual, and enter into agreements to make reimbursement for all or any part thereof;

(f) Enter into and perform contracts, leases and agreements with any person, firm or corporation or with any political subdivision or agency of any signatory party or with the federal government, or any agency thereof, including, but not limited to, contracts or agreements to furnish transit facilities and service;

(g) Create and abolish offices, employments and positions (other than those specifically provided for herein) as it deems necessary for the purposes of the Authority, and fix and provide for the qualification, appointment, removal, term, tenure, compensation, pension and retirement rights of its officers and employees without regard to the laws of any of the signatories;

(h) Establish, in its discretion, a personnel system based on merit and fitness and, subject to eligibility, participate in the pension and retirement plans of any signatory, or political subdivision or agency thereof, upon terms and conditions mutually acceptable;

(i) Contract for or employ any professional services;

(j) Control and regulate the use of facilities owned or controlled by the Authority, the service to be rendered and the fares and charges to be made therefor;

(k) Hold public hearings and conduct investigations relating to any matter affecting transportation in the Zone with which the Authority is concerned and, in connection therewith, subpoena witnesses, papers, records and documents; or delegate such authority to any officer. Each director may administer oaths or affirmations in any proceeding or investigation;

(l) Make or participate in studies of all phases and forms of transportation, including transportation vehicle research and development techniques and methods for determining traffic projections, demand motivations, and fiscal research and publicize and make available the results of such studies and other information relating to transportation; and

(m) Exercise, subject to the limitations and restrictions herein imposed, all powers reasonably necessary or essential to the declared objects and purposes of this Title.

## ARTICLE VI

### PLANNING

#### Mass Transit Plan

13.(a) The Board shall develop and adopt, and may from time to time review and revise, a mass transit plan for the immediate and long-range needs of the Zone. The mass transit plan shall include one or more plans designating (1) the transit facilities to be provided by the Authority, including the locations of terminals, stations, platforms, parking facilities and the character and nature thereof; (2) the design and location of such facilities; (3) whether such facilities



are to be constructed or acquired by lease, purchase or condemnation; (4) a timetable for the provision of such facilities; (5) the anticipated capital costs; (6) estimated operating expenses and revenues relating thereto; and (7) the various other factors and considerations, which, in the opinion of the Board, justify and require the projects therein proposed. Such plan shall specify the types of equipment to be utilized, the areas to be served, the routes and schedules of service expected to be provided and the probable fares and charges therefor.

(b) In preparing the mass transit plan, and in any review of revision thereof, the Board shall make full utilization of all data, studies, reports and information available from the National Capital Transportation Agency and from any other agencies of the federal government, and from signatories and the political subdivisions thereof.

### Planning Process

14.(a) The mass transit plan, and any revisions, alterations or amendments thereof, shall be coordinated, through the procedures hereinafter set forth, with

(1) other plans and programs affecting transportation in the Zone in order to achieve a balanced system of transportation, utilizing each mode to its best advantage;

(2) the general plan or plans for the development of the Zone; and

(3) the development plans of the various political subdivisions embraced within the Zone.

(b) It shall be the duty and responsibility of each member of the Board to serve as liaison between the Board and the body which appointed him to the Board. To provide a framework for regional participation in the planning process, the Board shall create technical committees concerned with planning and collection and analyses of data relative to decision-making in the transportation planning process, and the Mayor and Council of the District of Columbia, the component governments of the Northern Virginia Transportation District and the Washington Suburban Transit District shall appoint representatives to such technical committees and otherwise cooperate with the Board in the formulation of a mass transit plan, or in revisions, alterations, or amendments thereof.

(c) The Board, in the preparation, revision, alteration or amendment of a mass transit plan, shall

(1) consider data with respect to current and prospective conditions in the Zone, including, without limitation, land use, population, economic factors affecting development plans, goals or objectives for the development of the Zone and the separate political subdivisions, transit demands to be generated by such development, travel patterns, existing and proposed transportation and transit facilities, impact of transit plans on the dislocation of families and businesses, preservation of the beauty and dignity of the Nation's Capital, factors affecting environmental amenities and aesthetics and financial resources;

(2) cooperate with and participate in any continuous, comprehensive transportation planning process cooperatively established by the highway agencies of the signatories and the local political subdivisions in the Zone to meet the planning standards now or hereafter prescribed by the Federal-Aid Highway Acts; and

(3) to the extent not inconsistent with or duplicative of the planning process specified in subparagraph (2) of this paragraph (c), cooperate with the National Capital Planning Commission, the National Capital Regional Planning Council, the Washington Metropolitan Council of Governments, the Washington Metropolitan Area Transit Commission, the highway agencies of the Signatories, the Maryland-National Capital Park and Planning Commission, the Northern Virginia Regional Planning and Economic Development Commission, the Maryland State Planning Department and the Commission of Fine Arts. Such cooperation shall include the creation, as necessary, of technical committees composed of personnel, appointed by such agencies, concerned with planning and collection and analysis of data relative to decisionmaking in the transportation planning process.

#### Adoption of Mass Transit Plan

15.(a) Before a mass transit plan is adopted, altered, revised or amended, the Board shall transmit such proposed plan, alteration, revision or amendment for comment to the following and to such other agencies as the Board shall determine:

(1) The Mayor and Council of the District of Columbia, the Northern Virginia Transportation Commission and the Washington Suburban Transit Commission;

(2) the governing bodies of the Counties and Cities embraced within the Zone;

(3) the transportation agencies of the Signatories;

(4) the Washington Metropolitan Area Transit Commission;

(5) the Washington Metropolitan Council of Governments;

(6) the National Capital Planning Commission;

(7) the National Capital Regional Planning Council;

(8) the Maryland-National Capital Park and Planning Commission;

(9) the Northern Virginia Regional Planning and Economic Development Commission;

(10) the Maryland State Planning Department; and

(11) the private transit companies operating in the Zone and the Labor Unions representing the employees of such companies and employees of contractors providing service under operating contracts.

A copy of the proposed mass transit plan, amendment, or revision shall be kept at the office of the Board and shall be available for public inspection. Information with respect thereto shall be released to the public. After 30 days notice published once a week for 2 successive weeks in one or more newspapers of general circulation within the Transit Zone, a public hearing shall be held with respect to the proposed plan, alteration, revision, or amendment. The 30

days notice shall begin to run on the first day the notice appears in any such newspaper. The Board shall consider the evidence submitted and statements and comments made at such hearing and may make any changes in the proposed plan, amendment, or revision which it deems appropriate and such changes may be made without further hearing.

## ARTICLE VII

### FINANCING

#### Policy

16. With due regard for the policy of Congress for financing a mass transit plan for the Zone set forth in Section 204(g) of the National Capital Transportation Act of 1960 (74 Stat. 537), it is hereby declared to be the policy of this Title that, as far as possible, the payment of all costs shall be borne by the persons using or benefiting from the Authority's facilities and services and any remaining costs shall be equitably shared among the federal, District of Columbia and participating local governments in the Zone. The allocation among such governments of such remaining costs shall be determined by agreement among them and shall be provided in the manner hereinafter specified.

#### Plan of Financing

17.(a) The Authority, in conformance with said policy, shall prepare and adopt a plan for financing the construction, acquisition, and operation of facilities specified in a mass transit plan adopted pursuant to Article VI hereof, or in any alteration, revision or amendment thereof. Such plan of financing shall specify the facilities to be constructed or acquired, the cost thereof, the principal amount of revenue bonds, equipment trust certificates, and other evidences of debt proposed to be issued, the principal terms and provisions of all loans and underlying agreements and indentures, estimated operating expenses and revenues, and the proposed allocation among the federal, District of Columbia, and participating local governments of the remaining costs and deficits, if any, and such other information as the Commission may consider appropriate.

(b) Such plan of financing shall constitute a proposal to the interested governments for financial participation and shall not impose any obligation on any government and such obligations shall be created only as provided in Section 18 of this Article VII.

#### Commitments for Financial Participation

18.(a) Commitments on behalf of the portion of the Zone located in Virginia shall be by contract or agreement by the Authority with the Northern Virginia Transportation District, or its component governments, as authorized in the Transportation District Act of 1964 (Ch. 631, 1964 Acts of Virginia Assembly), to contribute to the capital required for the construction and/or acquisition of



facilities specified in a mass transit plan adopted as provided in Article VI, or any alteration, revision or amendment thereof, and for meeting expenses and obligations in the operation of such facilities. No such contract or agreement, however, shall be entered into by the Authority with the Northern Virginia Transportation District unless said District has entered into the contracts or agreements with its member governments, as contemplated by Section 1(b)(4) of Article 4 of said Act, which contracts or agreements expressly provide that such contracts or agreements shall inure to the benefit of the Authority and shall be enforceable by the Authority in accordance with the provisions of Section 2, Article 5 of said Act, and such contracts or agreements are acceptable to the Board. The General Assembly of Virginia hereby authorizes and designates the Authority as the agency to plan for and provide transit facilities and services for the area of Virginia encompassed within the Zone within the contemplation of Article 1, Section 3(c) of said Act.

(b) Commitments on behalf of the portion of the Zone located in Maryland shall be by contract or agreement by the Authority with the Washington Suburban Transit District, pursuant to which the Authority undertakes to provide transit facilities and service in consideration for the agreement by said District to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or in any alteration, revision or amendment thereof, and for meeting expenses and obligations incurred in the operation of such facilities.

(c) With respect to the District of Columbia and the federal government, the commitment or obligation to render financial assistance shall be created by appropriation or in such other manner, or by such other legislation, as the Congress shall determine. If prior to making such commitment by or on behalf of the District of Columbia, legislation is enacted by the Congress granting the governing body of the District of Columbia plenary power to create obligations and levy taxes, the commitment by the District of Columbia shall be by contract or agreement between the governing body of the District of Columbia and the Authority, pursuant to which the Authority undertakes, subject to the provisions of Section 20 hereof, to provide transit facilities and service in consideration for the undertaking by the District of Columbia to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or in any alteration, revision or amendment thereof, and for meeting expenses and obligations incurred in the operation of such facilities.

(d)(1) All payments made by the local Signatory governments for the Authority for the purpose of matching federal funds appropriated in any given year as authorized by Title VI of the Passenger Rail Investment and Improvement Act of 2008, approved October 16, 2008 (Pub. L. No. 110-432; 122 Stat. 4848), regarding funding of capital and preventive maintenance projects of the Authority shall be made from amounts derived from dedicated funding sources.

(2) For the purposes of this subsection, a 'dedicated funding source' means any source of funding that is earmarked or required under state or local law to be used to match federal appropriations authorized under Title VI of the

Passenger Rail Investment and Improvement Act of 2008, approved October 16, 2008 (Pub. L. No.110-432; 122 Stat. 4848), for payments to the Authority.

#### Administrative Expenses

19. Prior to the time the Authority has receipts from appropriations and contracts or agreements as provided in Section 18 of this Article VII, the expenses of the Authority for administration and for preparation of a mass transit and financing plan, including all engineering, financial, legal and other services required in connection therewith, shall, to the extent funds for such expenses are not provided through grants by the federal government, be borne by the District of Columbia, by the Washington Suburban Transit District and the component governments of the Northern Virginia Transportation District. Such expenses shall be allocated among such governments on the basis of population as reflected by the latest available population statistics of the Bureau of the Census; provided, however, that upon the request of any Director the Board shall make the allocation upon estimates of population acceptable to the Board. The allocations shall be made by the Board and shall be included in the annual current expense budget prepared by the Board.

#### Acquisition of Facilities from Federal or Other Agencies

20.(a) The Authority is authorized to acquire by purchase, lease or grant or in any manner other than condemnation, from the federal government, or any agency thereof, from the District of Columbia, Maryland or Virginia, or any political subdivision or agency thereof, any transit and related facilities, including real and personal property and all other assets, located within the Zone, whether in operation or under construction. Such acquisition shall be made upon such terms and conditions as may be agreed upon and subject to such authorization or approval by the Congress and the governing body of the District of Columbia, as may be required; provided, however, that if such acquisition imposes or may impose any further or additional obligation or liability upon the Washington Suburban Transit District, the Northern Virginia Transportation District, or any component government thereof, under any contract with the Authority, the Authority shall not make such acquisition until any such affected contract has been appropriately amended.

(b) For such purpose, the authority is authorized to assume all liabilities and contracts relating thereto, to assume responsibility as primary obligor, endorser or guarantor on any outstanding revenue bonds, equipment trust certificates or other form of indebtedness authorized in this Act issued by such predecessor agency or agencies and, in connection therewith, to become a party to, and assume the obligations of, any indenture or loan agreement underlying or issued in connection with any outstanding securities or debts.

#### Temporary Borrowing

21. The Board may borrow, in anticipation of receipts, from any signatory, the Washington Suburban Transit District, the Northern Virginia Transpor-

tation District or any component government thereof, or from any lending institution for any purposes of this Title, including administrative expenses. Such loans shall be for a term not to exceed two years and at such rates of interest as shall be acceptable to the Board. The signatories and any such political subdivision or agency may, in its discretion, make such loans from any available money.

### Funding

22. The Board shall not construct or acquire any of the transit facilities specified in a mass transit plan adopted pursuant to the provisions of Article VI of this Title, or in any alteration, revision or amendment thereof, nor make any commitments or incur any obligations with respect thereto until funds are available therefor.

## ARTICLE VIII

### BUDGET

#### Capital Budget

23. The Board shall annually adopt a capital budget, including all capital projects it proposes to undertake or continue during the budget period, containing a statement of the estimated cost of each project and the method of financing thereof.

#### Current Expense Budget

24. The Board shall annually adopt a current expense budget for each fiscal year. Such budget shall include the Board's estimated expenditures for administration, operation, maintenance and repairs, debt service requirements and payments to be made into any funds required to be maintained. The total of such expenses shall be balanced by the Board's estimated revenues and receipts from all sources, excluding funds included in the capital budget or otherwise earmarked for other purposes.

#### Adoption and Distribution of Budgets

25.(a) Following the adoption by the Board of Annual capital and current expense budgets, the general manager shall transmit certified copies of such budgets to the principal budget officer of the federal government, the District of Columbia, the Washington Suburban Transit District and of the component governments of the Northern Virginia Transportation Commission at such time and in such manner as may be required under their respective budgetary procedures.

(b) Each budget shall indicate the amounts, if any, required from the federal government, the Government of the District of Columbia, the Washington Suburban Transit District and the component governments of the Northern Virginia Transportation District, determined in accordance with the



commitments made pursuant to Article VII, Section 18 of this Title, to balance each of said budgets.

#### Payments

26. Subject to such review and approval as may be required by their budgetary or other applicable processes, the federal government, the Government of the District of Columbia, the Washington Suburban Transit District and the component governments of the Northern Virginia Transportation District shall include in their respective budgets next to be adopted and appropriate or otherwise provide the amounts certified to each of them as set forth in the budgets.

### ARTICLE IX

#### REVENUE BONDS

##### Borrowing Power

27. The Authority may borrow money for any of the purposes of this Title, may issue its negotiable bonds and other evidences of indebtedness in respect thereto and may mortgage or pledge its properties, revenues and contracts as security therefor.

All such bonds and evidences of indebtedness shall be payable solely out of the properties and revenues of the Authority. The bonds and other obligations of the Authority, except as may be otherwise provided in the indenture under which they were issued, shall be direct and general obligations of the Authority and the full faith and credit of the Authority are hereby pledged for the prompt payment of the debt service thereon and for the fulfillment of all other undertakings of the Authority assumed by it to or for the benefit of the holders thereof.

##### Funds and Expenses

28. The purposes of this Title shall include, without limitation, all costs of any project or facility or any part thereof, including interest during a period of construction and for a period not to exceed two years thereafter and any incidental expenses (legal, engineering, fiscal, financial, consultant and other expenses) connected with issuing and disposing of the bonds; all amounts required for the creation of an operating fund, construction fund, reserve fund, sinking fund, or other special fund; all other expenses connected with administration, the planning, design, acquisition, construction, completion, improvement or reconstruction of any facility or any part thereof; and reimbursement of advances by the Board or by others for such purposes and for working capital.

##### Credit Excluded; Officers, State, Political Subdivisions and Agencies

29. The Board shall have no power to pledge the credit of any signatory party, political subdivision or agency thereof, or to impose any obligation for

payment of the bonds upon any signatory party, political subdivision or agency thereof, but may pledge the contracts of such governments and agencies; provided, however, that the bonds may be underwritten in whole or in part as to principal and interest by the United States, or by any political subdivision or agency of any signatory; provided, further, that any bonds underwritten in whole or in part as to principal and interest by the United States shall not be issued without approval of the Secretary of the Treasury. Neither the Directors nor any person executing the bonds shall be liable personally on the bonds of the Authority or be subject to any personal liability or accountability by reason of the issuance thereof.

### Funding and Refunding

30. Whenever the Board deems it expedient, it may fund and refund the bonds and other obligations of the Authority whether or not such bonds and obligations have matured. It may provide for the issuance, sale or exchange of refunding bonds for the purpose of redeeming or retiring any bonds (including the payment of any premium, duplicate interest or each cash adjustment required in connection therewith) issued by the Authority or issued by any other issuing body, the proceeds of the sale of which have been applied to any facility acquired by the Authority or which are payable out of the revenues of any facility acquired by the Authority. Bonds may be issued partly to refund bonds and other obligations then outstanding, and partly for any other purpose of the Authority. All provisions of this Title applicable to the issuance of bonds are applicable to refunding bonds and to the issuance, sale or exchange thereof.

### Bonds; Authorization Generally

31. Bonds and other indebtedness of the Authority shall be authorized by resolution of the Board. The validity of the authorization and issuance of any bonds by the Authority shall not be dependent upon nor affected in any way by: (i) the deposition of bond proceeds by the Board or by contract, commitment or action taken with respect to such proceeds; or (ii) the failure to complete any part of the project for which bonds are authorized to be issued. The Authority may issue bonds in one or more series and may provide for one or more consolidated bond issues, in such principal amounts and with such terms and provisions as the Board may deem necessary. The bonds may be secured by a pledge of all or any part of the property, revenues and franchises under its control. Bonds may be issued by the Authority in such amount, with such maturities and in such denominations and form or forms, whether coupon or registered, as to principal alone or as to both principal and interest, as may be determined by the Board. The Board may provide for redemption of bonds prior to maturity on such notice and at such time or times and with such redemption provisions, including premiums, as the Board may determine.

### Bonds; Resolutions and Indentures Generally

32. The Board may determine and enter into indentures or adopt resolutions providing for the principal amount, date or dates, maturities, interest

rate, or rates, denominations, form, registration, transfer, interchange and other provisions of the bonds and coupons and the terms and conditions upon which the same shall be executed, issued, secured, sold, paid, redeemed, funded and refunded. The resolution of the Board authorizing any bond or any indenture so authorized under which the bonds are issued may include all such covenants and other provisions not inconsistent with the provisions of this Title, other than any restriction on the regulatory powers vested in the Board by this Title, as the Board may deem necessary or desirable for the issue, payment, security, protection or marketing of the bonds, including without limitation covenants and other provisions as to the rates or amounts of fees, rents and other charges to be charged or made for use of the facilities; the use, pledge, custody, securing, application and disposition of such revenues, of the proceeds of the bonds, and of any other moneys or contracts of the Authority; the operation, maintenance, repair and reconstruction of the facilities and the amounts which may be expended therefor; the sale, lease or other disposition of the facilities; the insuring of the facilities and of the revenues derived therefrom; the construction or other acquisition of other facilities; the issuance of additional bonds or other indebtedness; the rights of the bondholders and of any trustee for the bondholders upon default by the Authority or otherwise; and the modification of the provisions of the indenture and of the bonds. Reference on the face of the bonds to such resolution or indenture by its date of adoption or the apparent date on the face thereof is sufficient to incorporate all of the provisions thereof and of this Title into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all of the provisions of the indenture and of this Title and is bound thereby.

#### Maximum Maturity

33. No bond or its terms shall mature in more than fifty years from its own date and in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date herein authorized shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.

#### Tax Exemption

34. All bonds and all other evidences of debt issued by the Authority under the provisions of this Title and the interest thereon shall at all times be free and exempt from all taxation by or under authority of any signatory parties, except for transfer, inheritance and estate taxes.

#### Interest

35. Bonds shall bear interest at such rate or rates as may be determined by the Board, payable annually or semiannually.



### Place of Payment

36. The Board may provide for the payment of the principal and interest of bonds at any place or places within or without the signatory states, and in any specified lawful coin or currency of the United States of America.

### Execution

37. The Board may provide for the execution and authentication of bonds by the manual, lithographed or printed facsimile signature of members of the Board, and by additional authentication by a trustee or fiscal agent appointed by the Board; provided, however, that one of such signatures shall be manual. If any of the members whose signatures or countersignatures appear upon the bonds or coupons cease to be members before the delivery of the bonds or coupons, their signatures or countersignatures are nevertheless valid and of the same force and effect as if the members had remained in office until the delivery of the bonds and coupons.

### Holding Own Bonds

38. The Board shall have power out of any funds available therefor to purchase its bonds and may hold, cancel or resell such bonds.

### Sale

39. The Board may fix terms and conditions for the sale or other disposition of any authorized issue of bonds. The Board may sell bonds at less than their par or face value but no issue of bonds may be sold at an aggregate price below the par or face value thereof if such sale would result in a net interest cost to the Authority calculated upon the entire issue so sold in excess of the applicable rate determined by the Board, payable semiannually, computed with relation to the absolute maturity of the bonds according to standard tables of bond values, deducting the amount of any premium to be paid on the redemption of any bonds prior to maturity. All bonds issued and sold pursuant to this Title may be sold in such manner, either at public or private sale, as the Board shall determine.

### Negotiability

40. All bonds issued under the provisions of this Title are negotiable instruments.

### Bonds Eligible for Investment and Deposit

41. Bonds issued under the provisions of this Title are hereby made securities in which all public officers and public agencies of the signatories and their political subdivisions and all banks, trust companies, savings and loan associations, investment companies and others carrying on a banking business, all insurance companies and insurance associations and others carrying on an insurance business, all administrators, executors, guardians, trustees

and other fiduciaries, and all other persons may legally and properly invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any officer of any signatory, or of any agency or political subdivision of any signatory, for any purpose for which the deposit of bonds or other obligations of such signatory is now or may hereafter be authorized by law.

#### Validation Proceedings

42. Prior to the issuance of any bonds, the Board may institute a special proceeding to determine the legality of proceedings to issue the bonds and their validity under the laws of any of the signatory parties. Such proceeding shall be instituted and prosecuted in rem and the final judgment rendered therein shall be conclusive against all persons whomsoever and against each of the signatory parties.

#### Recording

43. No indenture need be recorded or filed in any public office, other than the office of the Board. The pledge of revenues provided in any indenture shall take effect forthwith as provided therein and irrespective of the date of receipt of such revenues by the Board of the indenture trustee. Such pledge shall be effective as provided in the indenture without physical delivery of the revenues to the Board or to the indenture trustee.

#### Pledged Revenues

44. Bond redemption and interest payments shall, to the extent provided in the resolution or indenture, constitute a first, direct and exclusive charge and lien on all revenues received from the use and operation of the facility, and on any sinking or other funds created therefrom. All such revenues, together with interest thereon, shall constitute a trust fund for the security and payment of such bonds and except as and to the extent provided in the indenture with respect to the payment therefrom of expenses for other purposes including administration, operation, maintenance, improvements or extensions of the facilities or other purposes shall not be used or pledged for any other purpose so long as such bonds, or any of them, are outstanding and unpaid.

#### Remedies

45. The holder of any bond may for the equal benefit and protection of all holders of bonds similarly situated: (1) by mandamus or other appropriate proceedings require and compel the performance of any of the duties imposed upon the Board or assumed by it, its officers, agents or employees under the provisions of any indenture, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction or insurance of the facilities, or in connection with the collection, deposit, investment, application and disbursement of the revenues derived from the operation and use of the facilities, or in connection with the deposit, investment and disbursement of the proceeds

received from the sale of bonds; or (2) by action or suit in a court of competent jurisdiction of any signatory party require the Authority to account as if it were the trustee of an express trust, or enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds.

## ARTICLE X

### EQUIPMENT TRUST CERTIFICATES

#### Power

46. The Board shall have power to execute agreements, leases and equipment trust certificates with respect to the purchase of facilities or equipment such as cars, trolley buses and motor buses, or other craft, in the form customarily used in such cases and appropriate to effect such purchase, and may dispose of such equipment trust certificates in such manner as it may determine to be for the best interests of the Authority. Each vehicle covered by an equipment trust certificate shall have the name of the owner or lessor plainly marked upon both sides thereof, followed by the words "Owner and Lessor."

#### Payments

47. All monies required to be paid by the Authority under the provisions of such agreements, leases and equipment trust certificates shall be payable solely from the revenue to be derived from the operation of the transit system or from such grants, loans, appropriations or other revenues, as may be available to the Board under the provisions of this Title. Payment for such facilities or equipment, or rentals thereof, may be made in installments, and the deferred installments may be evidenced by equipment trust certificates as aforesaid, and title to such facilities or equipment may not vest in the Authority until the equipment trust certificates are paid.

#### Procedure

48. The agreement to purchase facilities or equipment by the Board may direct the vendor to sell and assign the equipment to a bank or trust company, duly authorized to transact business in any of the signatory States, or to the Housing and Home Finance Administrator, as trustee, lessor or vendor, for the benefit and security of the equipment trust certificates and may direct the trustee to deliver the facilities and equipment to one or more designated officers of the Board and may authorize the trustee simultaneously therewith to execute and deliver a lease of the facilities or equipment to the Board.

#### Agreements and Leases

49. The agreements and leases shall be duly acknowledged before some person authorized by law to take acknowledgements of deeds and in the form



required for acknowledgement of deeds and such agreements, leases, and equipment trust certificates shall be authorized by resolution of the Board and shall contain such covenants, conditions and provisions as may be deemed necessary or appropriate to insure the payment of the equipment trust certificates from the revenues to be derived from the operation of the transit system and other funds.

The covenants, conditions and provisions of the agreements, leases and equipment trust certificates shall not conflict with any of the provisions of any resolution or trust agreement securing the payment of bonds or other obligations of the Authority then outstanding or conflict with or be in derogation of the rights of the holders of any such bonds or other obligations.

#### Law Governing

50. The equipment trust certificates issued hereunder shall be governed by Laws of the District of Columbia and for this purpose the chief place of business of the Authority shall be considered to be the District of Columbia. The filing of any documents required or permitted to be filed shall be governed by the Laws of the District of Columbia.

### ARTICLE XI

#### OPERATION OF FACILITIES

##### Operation by Contract or Lease

51. Any facilities and properties owned or controlled by the Authority may be operated by the Authority directly or by others pursuant to contract or lease as the Board may determine.

##### The Operating Contract

52. Without limitation upon the right of the Board to prescribe such additional terms and provisions as it may deem necessary and appropriate, the operating contract shall:

- (a) specify the services and functions to be performed by the Contractor;
- (b) provide that the Contractor shall hire, supervise and control all personnel required to perform the services and functions assumed by it under the operating contract and that all such personnel shall be employees of the Contractor and not of the Authority;
- (c) require the Contractor to assume the obligations of the labor contract or contracts of any transit company which may be acquired by the Authority and assume the pension obligations of any such transit company;
- (d) require the Contractor to comply in all respects with the labor policy set forth in Article XIV of this Title;
- (e) provide that no transfer of ownership of the capital stock, securities or interests in any Contractor, whose principal business is the operating contract, shall be made without written approval of the Board and the certificates or

other instruments representing such stock, securities or interest shall contain a statement of this restriction;

(f) provide that the Board shall have the sole authority to determine the rates or fares to be charged, the routes to be operated and the service to be furnished;

(g) specify the obligations and liabilities which are to be assumed by the Contractor and those which are to be the responsibility of the Authority;

(h) provide for an annual audit of the books and accounts of the Contractor by an independent certified public accountant to be selected by the Board and for such other audits, examinations and investigations of the books and records, procedures and affairs of the Contractor at such times and in such manner as the Board shall require, the cost of such audits, examinations and investigations to be borne as agreed by the parties in the operating contract; and

(i) provide that no operating contract shall be entered into for a term in excess of five years; provided, that any such contract may be renewed for successive terms, each of which shall not exceed five years. Any such operating contract shall be subject to termination by the Board for cause only.

#### Compensation for Contractor

53. Compensation to the Contractor under the operating contract may, in the discretion of the Board, be in the form of (1) a fee paid by the Board to the Contractor for services, (2) a payment by the Contractor to the Board for the right to operate the system, or (3) such other arrangement as the Board may prescribe; provided, however, that the compensation shall bear a reasonable relationship to the benefits to the Authority and to the estimated costs the Authority would incur in directly performing the functions and duties delegated under the operating contract; and provided, further, that no such contract shall create any right in the Contractor (1) to make or change any rate or fare or alter or change the service specified in the contract to be provided or (2) to seek judicial relief by any form of original action, review or other proceedings from any rate or fare or service prescribed by the Board. Any assertion, or attempted assertion, by the Contractor of the right to make or change any rate or fare or service prescribed by the Board shall constitute cause for termination of the operating contract. The operating contract may provide incentives for efficient and economical management.

#### Selection of Contractor

54. The Board shall enter into an operating contract only after formal advertisement and negotiations with all interested and qualified parties, including private transit companies rendering transit service within the Zone; provided, however, that, if the Authority acquires transit facilities from any agency of the federal or District of Columbia governments, in accordance with the provisions of Article VII, Section 20 of this Title, the Authority shall assume the obligations of any operating contract which the transferor agency may have entered into.

## ARTICLE XII

## COORDINATION OF PRIVATE AND PUBLIC FACILITIES

## Declaration of Policy

55. It is hereby declared that the interest of the public in efficient and economical transit service and in the financial well-being of the Authority and of the private transit companies requires that the public and private segments of the regional transit system be operated, to the fullest extent possible, as a coordinated system without unnecessary duplicating service.

## Implementation of Policy

56. In order to carry out the legislative policy set forth in Section 55 of this Article XII

(a) The Authority —

(1) except as herein provided, shall not, directly or through a Contractor, perform transit service by bus or similar motor vehicles;

(2) shall, in cooperation with the private carriers and WMATC, coordinate to the fullest extent practicable, the schedules for service performed by its facilities with the schedules for service performed by private carriers; and

(3) shall enter into agreements with the private carriers to establish and maintain, subject to approval by WMATC, through routes and joint fares and provide for the division thereof, or, in the absence of such agreements, establish and maintain through routes and joint fares in accordance with orders issued by WMATC directed to the private carriers when the terms and conditions for such through service and joint fares are acceptable to it.

(b) The WMATC, upon application, complaint, or upon its own motion, shall —

(1) direct private carriers to coordinate their schedules for service with the schedules for service performed by facilities owned or controlled by the Authority;

(2) direct private carriers to improve or extend any existing services or provide additional service over additional routes;

(3) authorize a private carrier, pursuant to agreement between said carrier and the Authority, to establish and maintain through routes and joint fares for transportation to be rendered with facilities owned or controlled by the Authority if, after hearing held upon reasonable notice, WMATC finds that such through routes and joint fares are required by the public interest; and

(4) in the absence of such an agreement with the Authority, direct a private carrier to establish and maintain through routes and joint fares with the Authority, if, after hearing held upon reasonable notice, WMATC finds that such through service and joint fares are required by the public interest; provided, however, that no such order, rule or regulation of WMATC shall be construed to require the Authority to establish and maintain any through route and joint fare.

(c) WMATC shall not authorize or require a private carrier to render any service, including the establishment or continuation of a joint fare for a



through route service with the Authority which is based on a division thereof between the Authority and private carrier which does not provide a reasonable return to the private carrier, unless the carrier is currently earning a reasonable return on its operation as a whole in performing transportation subject to the jurisdiction of WMATC. In determining the issue of reasonable return, WMATC shall take into account any income attributable to the carrier, or to any corporation, firm or association owned in whole or in part by the carrier, from the Authority whether by way of payment for services or otherwise.

(d) If the WMATC is unable, through the exercise of its regulatory powers over the private carriers granted in paragraph (b) hereof or otherwise, to bring about the requisite coordination of operations and service between the private carriers and the Authority, the Authority may in the situations specified in paragraph (b) hereof, cause such transit service to be rendered by its Contractor by bus or other motor vehicle, as it shall deem necessary to effectuate the policy set forth in Section 55 hereof. In any such situation, the Authority, in order to encourage private carriers to render bus service to the fullest extent practicable, may, pursuant to agreement, make reasonable subsidy payments to any private carrier.

(e) The Authority may acquire the capital stock or transit facilities of any private transit company and may perform transit service, including service by bus or similar motor vehicle, with transit facilities so acquired, or with transit facilities acquired pursuant to article VII, section 20. Upon acquisition of the capital stock or the transit facilities of any private transit company, the Authority shall undertake the acquisition as soon as possible of the capital stock or the transit facilities of each of the other private transit companies within the zone requesting such acquisition. Lack of such request, however, shall not be construed to preclude the Authority from acquiring the capital stock or the transit facilities of any such company pursuant to Section 82 of Article XVI.

#### Rights of Private Carriers Unaffected

57. Nothing in this Title shall restrict or limit such rights and remedies, if any, that any private carrier may have against the Authority arising out of acts done or actions taken by the Authority hereunder. In the event any court of competent jurisdiction shall determine that the Authority has unlawfully infringed any rights of any private carrier or otherwise caused or permitted any private carrier to suffer legally cognizable injury, damages or harm and shall award a judgment therefor, such judgment shall constitute a lien against any and all of the assets and properties of the Authority.

#### Financial Assistance to Private Carriers

58.(a) The Board may accept grants from and enter into loan agreements with the Housing and Home Finance Administrator, pursuant to the provisions of the Urban Mass Transportation Act of 1964 (78 Stat. 302), or with any

successor agency or under any law of similar purport, for the purpose of rendering financial assistance to private carriers.

(b) An application by the Board for any such grant or loan shall be based on and supported by a report from WMATC setting forth for each private carrier to be assisted (1) the equipment and facilities to be acquired, constructed, reconstructed, or improved, (2) the service proposed to be rendered by such equipment and facilities, (3) the improvement in service expected from such facilities and equipment, (4) how the use of such facilities and equipment will be coordinated with the transit facilities owned by the Authority, (5) the ability of the affected private carrier to repay any such loans or grants and (6) recommend terms for any such loans or grants.

(c) Any equipment or facilities acquired, constructed, reconstructed or improved with the proceeds of such grants or loans shall be owned by the Authority and may be made available to private carriers only by lease or other agreement which contain provisions acceptable to the Housing and Home Finance Administrator assuring that the Authority will have satisfactory continuing control over the use of such facilities and equipment.

### ARTICLE XIII

#### JURISDICTION; RATES AND SERVICE

##### Washington Metropolitan Area Transit Commission

59. Except as provided herein, this Title shall not affect the functions and jurisdiction of WMATC, as granted by Titles I and II of this Compact, over the transportation therein specified and the persons engaged therein and the Authority shall have no jurisdiction with respect thereto.

##### Public Facilities

60. Service performed by transit facilities owned or controlled by the Authority, and the rates and fares to be charged for such service, shall be subject to the sole and exclusive jurisdiction of the Board and, notwithstanding any other provision in this Compact contained, WMATC shall have no authority with respect thereto, or with respect to any contractor in connection with the operation by it of transit facilities owned or controlled by the Authority. The determinations of the Board with respect to such matters shall not be subject to judicial review nor to the processes of any court.

##### Standards

61. Insofar as practicable, and consistent with the provision of adequate service at reasonable fares, the rates and fares and service shall be fixed by the Board so as to result in revenues which will:

(a) pay the operating expenses and provide for repairs, maintenance and depreciation of the transit system owned or controlled by the Authority;

(b) provide for payment of all principal and interest on outstanding revenue bonds and other obligations and for payment of all amounts to sinking

funds and other funds as may be required by the terms of any indenture or loan agreement;

(c) provide for the purchase, lease or acquisition of rolling stock, including provisions for interest, sinking funds, reserve funds, or other funds required for payment of any obligations incurred by the Authority for the acquisition of rolling stock; and

(d) provide funds for any purpose the Board deems necessary and desirable to carry out the purposes of this Title.

### Hearings

62.(a) The Board shall not raise any fare or rate, nor implement a major service reduction, except after holding a public hearing with respect thereto.

(b) Any signatory, any political subdivision thereof, any agency of the federal government and any person, firm or association served by or using the transit facilities of the Authority and any private carrier may file a request with the Board for a hearing with respect to any rates or charges made by the Board or any service rendered with the facilities owned or controlled by the Authority. Such request shall be in writing, shall state the matter on which a hearing is requested and shall set forth clearly the matters and things on which the request relies. As promptly as possible after such a request is filed, the Board, or such officer or employee as it may designate, shall confer with the protestant with respect to the matters complained of. After such conference, the Board, if it deems the matter meritorious and of general significance, may call a hearing with respect to such request.

(c) The Board shall give at least 15 days notice for all public hearings. The notice shall be given by publication in a newspaper of daily circulation throughout the Transit Zone and such notice shall be published once a week for 2 successive weeks. The notice period shall start with the first day of publication. Notices of public hearings shall be posted in accordance with regulations promulgated by the Board.

(d) Prior to calling a hearing on any matter specified in this section, the Board shall prepare and file at its main office and keep open for public inspection its report relating to the proposed action to be considered at such hearing. Upon receipt by the Board of any report submitted by WMATC, in connection with a matter set for hearing, pursuant to the provisions of Section 63 of this Article XIII, the Board shall file such report at its main office and make it available for public inspection. For hearings called by the Board pursuant to paragraph (b), above, the Board also shall cause to be lodged and kept open for public inspection the written request upon which the hearing is granted and all documents filed in support thereof.

### Reference of Matters to WMATC

63. To facilitate the attainment of the public policy objectives for operation of the publicly and privately owned or controlled transit facilities as stated in Article XII, Section 55, prior to the hearing provided for by Section 62 hereof —



(a) The Board shall refer to WMATC for its consideration and recommendations, any matter which the Board considers may affect the operation of the publicly and privately owned or controlled transit facilities as a coordinated regional transit system and any matter for which the Board has called a hearing, pursuant to Section 62 of this Article XIII, except that temporary or emergency changes in matters affecting service shall not be referred; and

(b) WMATC, upon such reference of any matter to it, shall give the referred matter preference over any other matters pending before it and shall, as expeditiously as practicable, prepare and transmit its report thereon to the Board. The Board may request WMATC to reconsider any part of its report or to make any supplemental reports it deems necessary. All of such reports shall be advisory only.

(c) Any report submitted by WMATC to the Board shall consider, without limitation, the probable effect of the matter or proposal upon the operation of the publicly and privately owned or controlled transit facilities as a coordinated regional system, passenger movements, fare structures, service and the impact on the revenues of both the public and private facilities.

#### ARTICLE XIV

#### LABOR POLICY

##### Construction

64. The Board shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Authority or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a — 276a-5) [see now 40 U.S.C. § 3141], and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project, which contract shall be deemed to be a contract of the character specified in Section 103 of the Contract Work Hours Standards Act (76 Stat. 357), as now or as may hereafter be in effect. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory and other authority and functions set forth in Reorganization Plan No. 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15) [now noted under 5 U.S.C. § 903], and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)). The requirements of this section shall also be applicable with respect to the employment of laborers and mechanics in the

construction, alteration or repair, including painting and decorating, of the transit facilities owned or controlled by the Authority where such activities are performed by a Contractor pursuant to agreement with the operator of such facilities.

### Equipment and Supplies

65. Contracts for the manufacture or furnishing of materials, supplies, articles and equipment shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.) [see now 41 U.S.C. § 6501 et seq.], as now or as may hereafter be in effect.

### Operations

66.(a) The rights, benefits, and other employee protective conditions and remedies of section 13(c) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1609(c) [see now 49 U.S.C. § 5333(a)]), as determined by the Secretary of Labor shall apply to the operation by the Washington Metropolitan Area Transit Authority of any mass transit facilities owned or controlled by it and to any contract or other arrangement for the operation of transit facilities. Whenever the Authority shall operate any transit facility or enter into any contractual or other arrangements for the operation of such transit facility the Authority shall extend to employees of affected mass transportation systems first opportunity for transfer and appointment as employees of the Authority in accordance with seniority, in any nonsupervisory job in respect to such operations for which they can qualify after a reasonable training period. Such employment shall not result in any worsening of the employee's position in his former employment nor any loss of wages, hours, working conditions, seniority, fringe benefits and rights and privileges pertaining thereto.

(b) The Authority shall deal with and enter into written contracts with employees as defined in section 152 of title 29, United States Code, through accredited representatives of such employees or representatives of any labor organization authorized to act for such employees concerning wages, salaries, hours, working conditions, and pension or retirement provisions.

(c) In case of any labor dispute involving the Authority and such employees where collective bargaining does not result in agreement, the Authority shall submit such dispute to arbitration by a board composed of three persons, one appointed by the Authority, one appointed by the labor organization representing the employees, and a third member to be agreed upon by the labor organization and the Authority. The member agreed upon by the labor organization and the Authority shall act as chairman of the board. The determination of the majority of the board of arbitration, thus established shall be final and binding on all matters in dispute. If after a period of ten days from the date of the appointment of the two arbitrators representing the Authority and the labor organization, the third arbitrator has not been selected, then either arbitrator may request the Federal Mediation and Conciliation Service to furnish a list of five persons from which the third arbitrator shall be



selected. The arbitrators appointed by the Authority and the labor organization, promptly after the receipt of such list shall determine by lot the order of elimination, and thereafter each shall in that order alternately eliminate one name until only one name remains. The remaining person on the list shall be the third arbitrator. The term "labor dispute" shall be broadly construed and shall include any controversy concerning wages, salaries, hours, working conditions, or benefits including health and welfare, sick leave, insurance or pension or retirement provisions but not limited thereto, and including any controversy concerning any differences or questions that may arise between the parties including but not limited to the making or maintaining of collective bargaining agreements, the terms to be included in such agreements, and the interpretation or application of such collective bargaining agreements and any grievance that may arise and questions concerning representation. Each party shall pay one-half of the expenses of such arbitration.

(d) The Authority is hereby authorized and empowered to establish and maintain a system of pensions and retirement benefits for such officers and employees of the Authority as may be designated or described by resolution of the Authority; to fix the terms of and restrictions on admission to such system and the classifications therein; to provide that persons eligible for admission in such pension system shall not be eligible for admission to, or receive any benefits from, any other pension system (except social security benefits), which is financed or funded, in whole or in part, directly or indirectly by funds paid or appropriated by the Authority to such other pension system, and to provide in connection with such pension system, a system of benefits payable to the beneficiaries and dependents of any participant in such pension system after the death of such participant (whether accidental or otherwise, whether occurring in the actual performance of duty or otherwise, or both) subject to such exceptions, conditions, restrictions and classifications as may be provided by resolution of the Authority. Such pension system shall be financed or funded by such means and in such manner as may be determined by the Authority to be economically feasible. Unless the Authority shall otherwise determine, no officer or employee of the Authority and no beneficiary or dependent of any such officer or employee shall be eligible to receive any pension or retirement or other benefits both from or under any such pension system and from or under any pension or retirement system established by an acquired transportation system or established or provided for, by or under the provisions of any collective bargaining agreement between the Authority and the representatives of its employees.

(e) Whenever the Authority acquires existing transit facilities from a public or privately owned utility either in proceeding by eminent domain or otherwise, the Authority shall assume and observe all existing labor contracts and pension obligations. When the Authority acquires an existing transportation system, all employees who are necessary for the operation thereof by the Authority shall be transferred to and appointed as employees of the Authority, subject to all the rights and benefits of this Title. These employees shall be given seniority credit and sick leave, vacation, insurance and pension credits in accordance with the records or labor agreements from the acquired trans-



portation system. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired transportation system shall continue to have rights, privileges, benefits, obligations and status with respect to such established system. The Authority shall assume the obligations of any transportation system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees. It shall assume the provisions of any collective bargaining agreement between such acquired transportation system and the representatives of its employees. The Authority and the employees, through their representatives for collective bargaining purposes, shall take whatever action may be necessary to have pension trust funds presently under the joint control of the acquired transportation system and the participating employees through their representative transferred to the trust fund to be established, maintained and administered jointly by the Authority and the participating employees through their representatives. No employee of any acquired transportation system who is transferred to a position with the Authority shall by reason of such transfer be placed in any worse position with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits, than he enjoyed as an employee of such acquired transportation system.

## ARTICLE XV

### RELOCATION ASSISTANCE

#### Relocation Program and Payments

67. Section 7 of the Urban Mass Transportation Act of 1964, and as the same may from time to time be amended, and all regulations promulgated thereunder, are hereby made applicable to individuals, families, business concerns and nonprofit organizations displaced from real property by actions of the Authority without regard to whether financial assistance is sought by or extended to the Authority under any provision of that Act; provided, however, that in the event real property is acquired for the Authority by an agency of the federal government, or by a State or local agency or instrumentality, the Authority is authorized to reimburse the acquiring agency for relocation payments made by it.

#### Relocation of Public or Public Utility Facilities

68. Notwithstanding the provisions of Section 67 of this Article XV, any highway or other public facility or any facilities of a public utility company which will be dislocated by reason of a project deemed necessary by the Board to effectuate the authorized purposes of this Title shall be relocated if such facilities are devoted to a public use, and the reasonable cost of relocation, if substitute facilities are necessary, shall be paid by the Board from any of its monies.

## ARTICLE XVI

## GENERAL PROVISIONS

## Creation and Administration of Funds

69.(a) The Board may provide for the creation and administration of such funds as may be required. The funds shall be disbursed in accordance with rules established by the Board and all payments from any funds shall be reported to the Board. Monies in such funds and other monies of the Authority shall be deposited, as directed by the Board, in any branch or subsidiary of any state or national bank which has operations within the Zone, and having a total paid-in capital of at least one million dollars (\$1,000,000). The trust department of any such state or national bank may be designated as a depository to receive any securities acquired or owned by the Authority. The restriction with respect to paid-in capital may be waived for any such bank which agrees to pledge federal securities to protect the funds and securities of the Authority in such amounts and pursuant to such arrangements as may be acceptable to the Board.

(b) Any monies of the Authority may, in the discretion of the Board and subject to any agreement or covenant between the Authority and the holders of any of its obligations limiting or restricting classes of investments, be invested in the following:

(1) Direct obligations of or obligations guaranteed by the United States of America;

(2) Bonds, debentures, notes or other evidences of indebtedness issued by agencies of the United States of America, including but not limited to the following: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Federal National Mortgage Association; Student Loan Marketing Association; Government National Mortgage Association; Tennessee Valley Authority; or United States Postal Service;

(3) Securities that qualify as lawful investments and may be accepted as security for fiduciary, trust and public funds under the control of the United States or any officer or officers thereof, or securities eligible as collateral for deposits of monies of the United States, including United States Treasury tax and loan accounts;

(4) Domestic and Eurodollar certificates of deposit; and

(5) Bonds, debentures, notes or other evidences of indebtedness issued by a domestic corporation (i.e., a corporation organized under the laws of one of the states of the United States), provided that such obligations are non-convertible and at the time of their purchase are rated in the highest rating categories by a nationally recognized bond rating agency.

## Annual Independent Audit

70.(a) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial accounts of the Authority. The audit shall be made by qualified certified public accountants selected by the Board, who shall have no

personal interest, direct or indirect, in the financial affairs of the Authority or any of its officers or employees. The report of audit shall be prepared in accordance with generally accepted auditing principles and shall be filed with the Chairman and other officers as the Board shall direct. Copies of the report shall be distributed to each Director, the Congress, the Mayor and Council of the District of Columbia, the Governors of Virginia and Maryland, the Washington Suburban Transit Commission, the Northern Virginia Transportation Commission, and the governing bodies of the political subdivisions located within the Transit Zone which are parties to commitments for participation in the financing of the Authority and shall be made available for public distribution.

(b) The financial transactions of the Board shall be subject to audit by the United States General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Board are kept.

(c) Any Director, officer or employee who shall refuse to give all required assistance and information to the accountants selected by the Board or who shall refuse to submit to them for examination such books, documents, records, files, accounts, papers, things or property as may be requested shall, in the discretion of the Board forfeit his office.

### Reports

71. The Board shall make and publish an annual report on its programs, operations and finances, which shall be distributed in the same manner provided by Section 70 of this Article XVI for the report of annual audit. It may also prepare, publish and distribute such other public reports and informational materials as it may deem necessary or desirable.

### Insurance

72. The Board may self-insure or purchase insurance and pay the premiums therefor against loss or damage to any of its properties; against liability for injury to persons or property; and against loss of revenue from any cause whatsoever. Such insurance coverage shall be in such form and amount as the Board may determine, subject to the requirements of any agreement arising out of issuance of bonds or other obligations by the Authority.

### Purchasing

73.(a)(1) Except as provided in subsections (b), (c), and (f) of this section, and except in the case of procurement procedures otherwise expressly authorized by statute, the Authority, in conducting a procurement of property, services, or construction, shall:

(A) obtain full and open competition through the use of competitive procedures in accordance with the requirements of this section; and



(B) use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

(2) In determining the competitive procedure appropriate under the circumstances, the Authority shall:

(A) solicit sealed bids if:

(i) time permits the solicitation, submission, and evaluation of sealed bids;

(ii) the award will be made on the basis of price and other price-related factors;

(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

(iv) there is a reasonable expectation of receiving more than one sealed bid; or

(B) request competitive proposals if sealed bids are not appropriate under subparagraph (A) of this paragraph.

(b) The Authority may provide for the procurement of property, services, or construction covered by this section using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property, service, or construction if the Authority determines that excluding the source would increase or maintain competition and would likely result in reduced overall costs for procurement of property, services, or construction.

(c) The Authority may use procedures other than competitive procedures if:

(1) the property, services, or construction needed by the Authority are available from only one responsible source and no other type of property, services, or construction will satisfy the needs of the Authority; or

(2) the Authority's need for the property, services, or construction is of such an unusual and compelling urgency that the Authority would be seriously injured unless the Authority limits the number of sources from which it solicits bids or proposals; or

(3) the Authority determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement; or

(4) the property or services needed can be obtained at reasonable prices through federal or other governmental sources.

(d) For the purpose of applying subsection (c)(1) of this section:

(1) In the case of a contract to be awarded on the basis of acceptance of an unsolicited proposal, the property, services, or construction shall be deemed to be available from only one responsible source if the source has submitted an unsolicited proposal that demonstrates a concept:

(A) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability to provide the service; and

(B) the substance of which is not otherwise available to the Authority and does not resemble the substance of a pending competitive procurement.

(2) In the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment or the continued

provision of highly specialized services, the property, services, or construction may be deemed to be available from only the original source and may be procured through procedures other than competitive procedures if it is likely that an award to a source other than the original source would result in:

(A) substantial duplication of cost to the Authority that is not expected to be recovered through competition; or

(B) unacceptable delays in fulfilling the Authority's needs.

(e) If the Authority uses procedures other than competitive procedures to procure property, services, or construction under subsection (c)(2) of this section, the Authority shall request offers from as many potential sources as is practicable under the circumstances.

(f)(1) To promote efficiency and economy in contracting, the Authority may use simplified acquisition procedures for purchases of property, services, and construction.

(2) For the purposes of this subsection, simplified acquisition procedures may be used for purchases for an amount that does not exceed the simplified acquisition threshold adopted by the federal government.

(3) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the procedures under paragraph (1) of this subsection.

(4) In using simplified acquisition procedures, the Authority shall promote competition to the maximum extent practicable.

(g) The Board shall adopt policies and procedures to implement this section. The policies and procedures shall provide for publication of notice of procurements and other actions designed to secure competition where competitive procedures are used.

(h) The Authority, in its discretion, may reject any and all bids or proposals received in response to a solicitation.

### Rights of Way

74. The Board is authorized to locate, construct and maintain any of its transit and related facilities in, upon, over, under or across any streets, highways, freeways, bridges and any other vehicular facilities, subject to the applicable laws governing such use of such facilities by public agencies. In the absence of such laws, such use of such facilities by the Board shall be subject to such reasonable conditions as the highway department or other affected agency of a signatory party may require; provided, however, that the Board shall not construct or operate transit or related facilities upon, over, or across any parkways or park lands without the consent of, and except upon the terms and conditions required by, the agency having jurisdiction with respect to such parkways and park lands, but may construct or operate such facilities in a subway under such parkways or park lands upon such reasonable terms and conditions as may be specified by the agency having jurisdiction with respect thereto.



## Compliance with Laws, Regulations and Ordinances

75. The Board shall comply with all laws, ordinances and regulations of the signatories and political subdivisions and agencies thereof with respect to use of streets, highways and all other vehicular facilities, traffic control and regulation, zoning, signs and buildings.

## Police

76.(a) The Authority is authorized to establish and maintain a regular police force, to be known as the Metro Transit Police, to provide protection for its patrons, personnel, and Transit facilities. The Metro Transit Police shall have the powers and duties and shall be subject to the limitations set forth in this section. It shall be composed of both uniformed and plainclothes personnel and shall be charged with the duty of enforcing the laws of the Signatories, the laws, ordinances, and regulations of the political subdivisions thereof in the Transit Zone, and the rules and regulations of the Authority. The jurisdiction of the Metro Transit Police shall limited to Transit facilities (including bus stops) owned, controlled, or operated by the Authority, but this restriction shall not limit the power of the said Metro Transit Police to make arrests in the Transit Zone for violations committed upon, to, or against such Transit facilities from within or outside such facilities while in hot or close pursuit, or to execute traffic citations and criminal process in accordance with subsection (c) of this section. The members of the Metro Transit Police shall have concurrent jurisdiction in the performance of their duties with the duly constituted law enforcement agencies of the Signatories and of the political subdivisions thereof in which any Transit facility of the Authority is located or in which the Authority operates any Transit service. Nothing contained in this section shall either relieve any Signatory or political subdivision or agency thereof from its duty to provide police, fire, and other public safety service and protection, or limit, restrict, or interfere with the jurisdiction of, or the performance of, duties by the existing police, fire, and other public safety agencies. For purposes of this section, "bus stop" means that area within 150 feet of a Metrobus bus stop sign, excluding the interior of any building not owned, controlled, or operated by the Washington Metropolitan Area Transit Authority.

(b) A member of the Metro Transit Police shall have the same powers, including the power of arrest, and shall be subject to the same limitations, including regulatory limitations, in performance of his or her duties as a member of the duly constituted police force of the political subdivision in which the Metro Transit Police member is engaged in the performance of his or her duties. A member of the Metro Transit Police is authorized to carry and use only such weapons, including handguns, as are issued by the Authority. A member of the Metro Transit Police is subject to such additional limitations in the use of weapons as are imposed on the duly constituted police force for the political subdivision in which he or she is engaged in the performance of his or her duties.

(c) Members of the Metro Transit Police shall have the power to execute on the transit facilities owned, controlled, or operated by the Authority any



traffic citation or any criminal process issued by any court of any signatory or of any political subdivision of a signatory, for any felony, misdemeanor, or other offense against the laws, ordinances, rules or regulations specified in subsection (a). With respect to offenses committed upon, to, or against the transit facilities owned, controlled, or operated by the Authority, the Metro Transit Police shall have the power to execute criminal process within the Transit Zone.

(d) Upon the apprehension or arrest of any person by a member of the Metro Transit Police pursuant to the provisions of subsection (b), the officer, as required by the law of the place of apprehension or arrest, shall either issue a summons or a citation against the person, book the person, or deliver the person to the duly constituted police or judicial officer of the signatory or political subdivision where the apprehension or arrest is made, for disposition as required by law.

(e) The Authority shall have the power to adopt rules and regulations for the safe, convenient, and orderly use of the Transit facilities owned, controlled, or operated by the Authority, including the payment and the manner of the payment of fares or charges therefor, the protection of the Transit facilities, the control of traffic and parking upon the Transit facilities, and the safety and protection of the riding public. In the event that any such rules and regulations contravene the laws, ordinances, rules, or regulations of a Signatory or any political subdivision thereof which are existing or subsequently enacted, these laws, ordinances, rules, or regulations of the Signatory or the political subdivision shall apply and the conflicting rule or regulation, or portion thereof, of the Authority shall be void within the jurisdiction of that Signatory or political subdivision. In all other respects the rules and regulations of the Authority shall be uniform throughout the Transit Zone. The rules and regulations established under this subsection shall be adopted by the Board following public hearings held in accordance with section 62(c) and (d) of this Compact. The final regulation shall be published in a newspaper of general circulation within the Transit Zone at least 15 days before its effective date. Any person violating any rule or regulation of the Authority shall be subject to arrest and, upon conviction by a court of competent jurisdiction, shall pay a fine of not more than \$250 and costs. Criminal violations of any rule or regulation of the Authority shall be prosecuted by the Signatory or political subdivision in which the violation occurred, in the same manner by which violations of laws, ordinances, rules and regulations of the Signatory or political subdivision are prosecuted.

(f) With respect to members of the Metro Transit Police, the Authority shall —

(1) establish classifications based on the nature and scope of duties and fix and provide for their qualifications, appointment, removal, tenure, term, compensation pension, and retirement benefits;

(2) provide for their training and for this purpose, the Authority may enter into contracts or agreements with any public or private organization engaged in police training, and this training and the qualifications of the uniformed and plainclothes personnel shall at least equal the requirements of

each signatory and of the political subdivisions therein in the Transit Zone for their personnel performing comparable duties; and

(3) prescribe distinctive uniforms to be worn.

(g) The Authority shall have the power to enter into agreements with the signatories, the political subdivisions thereof in the Transit Zone, and public safety agencies located therein, including those of the Federal Government, for the delineation of the functions and responsibilities of the Metro Transit Police and the duly constituted police, fire, and other public safety agencies, and for mutual assistance.

(h) Before entering upon the duties of office, each member of the Metro Transit Police shall take or subscribe to an oath or affirmation, before a person authorized to administer oaths, faithfully to perform the duties of that office.

#### Exemption from Regulation

77. Except as otherwise provided in this Title, any transit service rendered by transit facilities owned or controlled by the Authority and the Authority or any corporation, firm or association performing such transit service pursuant to an operating contract with the Authority, shall, in connection with the performance of such service, be exempt from all laws, rules, regulations and orders of the signatories and of the United States otherwise applicable to such transit service and persons, except that laws, rules, regulations and orders relating to inspection of equipment and facilities, safety and testing shall remain in force and effect; provided, however, that the Board may promulgate regulations for the safety of the public and employees not inconsistent with the applicable laws, rules, regulations or orders of the signatories and of the United States.

#### Tax Exemption

78. It is hereby declared that the creation of the Authority and the carrying out of the corporate purposes of the Authority is in all respects for the benefit of the people of the signatory states and is for a public purpose and that the Authority and the Board will be performing an essential governmental function, including, without limitation, proprietary, governmental and other functions, in the exercise of the powers conferred by this Title. Accordingly, the Authority and the Board shall not be required to pay taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision or upon its activities in the operation and maintenance of any transit facilities or upon any revenues therefrom and the property and income derived therefrom shall be exempt from all federal, State, District of Columbia, municipal and local taxation. This exemption shall include, without limitation, all motor vehicle license fees, sales taxes and motor fuel taxes.

#### Reduced Fares

79. The District of Columbia, the Northern Virginia Transportation District, the Washington Suburban Transit District and the component governments

thereof, may enter into contracts or agreements with the Authority to make equitable payments for fares lower than those established by the Authority pursuant to the provisions of Article XIII hereof for any specified class or category of riders.

#### Liability for Contracts and Torts

80. The Authority shall be liable for its contracts and for its torts and those of its Directors, officers, employees and agent committed in the conduct of any proprietary function, in accordance with the law of the applicable signatory (including rules on conflict of laws), but shall not be liable for any torts occurring in the performance of a governmental function. The exclusive remedy for such breach of contracts and torts for which the Authority shall be liable, as herein provided, shall be by suit against the Authority. Nothing contained in this Title shall be construed as a waiver by the District of Columbia, Maryland, Virginia and the counties and cities within the Zone of any immunity from suit.

#### Jurisdiction of Courts

81. The United States District Courts shall have original jurisdiction, concurrent with the courts of Maryland, Virginia, and the District of Columbia, of all actions brought by or against the Authority and to enforce subpoenas issued under this Title. Any such action initiated in a State or District of Columbia court shall be removable to the appropriate United States District Court in the manner provided by 28 U.S.C. § 1446.

#### Condemnation

82.(a) The Authority shall have the power to acquire by condemnation, whenever in its opinion it is necessary or advantageous to the Authority to do so, any real or personal property, or any interest therein, necessary or useful for the transit system authorized herein, except property owned by the United States, by a signatory, or any political subdivision thereof, whenever such property cannot be acquired by negotiated purchase at a price satisfactory to the Authority.

(b) Proceedings for the condemnation of property in the District of Columbia shall be instituted and maintained under §§ 16-1351 — 16-1366. Proceedings for the condemnation of property located elsewhere within the Zone shall be instituted and maintained, if applicable, pursuant to the provisions of the Act of August 1, 1888, as amended (25 Stat. 357, 40 U.S.C. 257) [see now 40 U.S.C. § 3113] and the Act of June 25, 1948 (62 Stat. 935 and 937, 28 U.S.C. 1358 and 1403) or any other applicable Act; provided, however, that if there is no applicable Federal law, condemnation proceedings shall be in accordance with the provisions of the State law of the signatory in which the property is located governing condemnation by the highway agency of such state. Whenever the words “real property,” “realty,” “land,” “easement,” “right-of-way,” or words of similar meaning are used in any applicable federal or state



law relating to procedure, jurisdiction and venue, they shall be deemed, for the purposes of this Title, to include any personal property authorized to be acquired hereunder.

(c) Any award or compensation for the taking of property pursuant to this Title shall be paid by the Authority, and none of the signatory parties nor any other agency, instrumentality or political subdivision thereof shall be liable for such award or compensation.

#### Enlargement and Withdrawal; Duration

83.(a) When advised in writing by the Northern Virginia Transportation Commission or the Washington Suburban Transit Commission that the geographical area embraced therein has been enlarged, the Board, upon such terms and conditions as it may deem appropriate, shall by resolution enlarge the Zone to embrace the additional area.

(b) The duration of this Title shall be perpetual but any signatory thereto may withdraw therefrom upon two years' written notice to the Board.

(c) The withdrawal of any signatory shall not relieve such signatory, any transportation district, county or city or other political subdivision thereof from any obligation to the Authority, or inuring to the benefit of the Authority, created by contract or otherwise.

#### Amendments and Supplements

84. Amendments and supplements to this Title to implement the purposes thereof may be adopted by legislative action of any of the Signatory parties concurred in by all of the others. When one Signatory adopts an amendment or supplement to an existing section of the Compact, that amendment or supplement shall not be immediately effective, and the previously enacted provision or provisions shall remain in effect in each jurisdiction until the amendment or supplement is approved by the other Signatories and is consented to by Congress.

#### Construction and Severability

85. The provisions of this Title and of the agreements thereunder shall be severable and if any phrase, clause, sentence or provision of this Title or any such agreement is declared to be unconstitutional or the applicability thereof to any signatory party, political subdivision or agency thereof is held invalid, the constitutionality of the remainder of this Title or any such agreement and the applicability thereof to any other signatory party, political subdivision or agency thereof or circumstance shall not be affected thereby. It is the legislative intent that the provisions of this Title be reasonably and liberally construed.

#### Effective Date; Execution

86. This Title shall be adopted by the signatories in the manner provided by law therefor and shall be signed and sealed in four duplicate original copies.

One such copy shall be filed with the Secretary of State of each of the signatory parties or in accordance with laws of the State in which the filing is made, and one copy shall be filed and retained in the archives of the Authority upon its organization. This Title shall become effective ninety days after the enactment of concurring legislation by or on behalf of the District of Columbia, Maryland and Virginia and consent thereto by the Congress and all other acts or actions have been taken, including the signing and execution of the Title by the Governors of Maryland and Virginia and the Commissioners of the District of Columbia.

(Nov. 6, 1966, 80 Stat. 1324, Pub. L. 89-774, § 1; July 13, 1972, 86 Stat. 466, Pub. L. 92-349, title III, § 301; Oct. 21, 1972, 86 Stat. 1000, Pub. L. 92-517, title I, § 101; June 4, 1976, 90 Stat. 672, Pub. L. 94-306, § 1(1)-(4); June 11, 1976, D.C. Law 1-67, §§ 2, 3, DCR 501; Sept. 26, 1984, D.C. Law 5-122, § 2, 31 DCR 4049; June 6, 1996, D.C. Law 11-138, § 4, 43 DCR 2142; Mar. 23, 2010, D.C. Law 18-125, § 2, 57 DCR 1178.)

**Cross references.** — Blind and physically disabled persons, equal access to public conveyances and accommodations, see § 7-1002.

Persons displaced by programs and projects of Washington Metropolitan Area Transit Authority, eligibility for relocation payments and assistance, see § 6-333.01.

**Section references.** — This section is referenced in § 9-1107.03, § 9-1107.04, § 9-1107.05, § 9-1107.06, § 9-1109.01, and § 50-921.31.

**Prior Codifications.** — 1981 Ed., § 1-2431. 1973 Ed., § 1-1431.

**Effect of amendments.** — D.C. Law 18-125, in section 5, in subsec. (a), struck “of 6 Directors” and inserted “of 8 Directors”, struck “Signatory. For Virginia,” and inserted “Signatory, and 2 for the federal government (one of whom shall be a regular passenger and customer of the bus or rail service of the Authority). For Virginia,”, struck “and for Maryland, by the Washington Suburban Transit Commission” and inserted “for Maryland, by the Washington Suburban Transit Commission; and for the federal government, by the Administrator of General Services”, struck “body. A Director” and inserted “body. A Director for a Signatory”, struck “The appointing authorities shall also appoint an alternate for each Director, who may act only” and inserted “The nonfederal appointing authorities shall also appoint an alternate for each Director. In addition, the Administrator of General Services shall also appoint 2 nonvoting members who shall serve as the alternates for the federal Directors. An alternate Director may act only”, struck “Each alternate shall serve” and inserted “Each alternate, including the federal nonvoting Directors, shall serve”, and, in subsec. (b), struck “of the signatory” and inserted “of the Government”; in section 9, in subsec. (a), struck “comptroller

and“ and inserted “comptroller, an inspector general, and“ and struck “manager and“ and inserted “manager, inspector general, and“, redesignated subsections (d) and (e) as subsections (e) and (f), and added subsec. (d); and, in section 18, added subsec. (d).

**Temporary Amendment of Section.** — Section 2(a) of D.C. Law 18-42 amended section 5 of the Washington Metropolitan Area Transit Regulation Compact, in subsec. (a), struck “of 6 Directors” and inserted “of 8 Directors”, struck “Signatory. For Virginia,” and inserted “Signatory, and 2 for the federal government (one of whom shall be a regular passenger and customer of the bus or rail service of the Authority). For Virginia,”, struck “and for Maryland, by the Washington Suburban Transit Commission” and inserted “for Maryland, by the Washington Suburban Transit Commission; and for the federal government, by the Administrator of General Services”, struck “body. A Director” and inserted “body. A Director for a Signatory”, struck “The appointing authorities shall also appoint an alternate for each Director, who may act only” and inserted “The nonfederal appointing authorities shall also appoint an alternate for each Director. In addition, the Administrator of General Services shall also appoint 2 nonvoting members who shall serve as the alternates for the federal Directors. An alternate Director may act only”, struck “Each alternate shall serve” and inserted the phrase “Each alternate, including the federal nonvoting Directors, shall serve”; and, in subsec. (b), struck “of the signatory” and inserted “of the Government”.

Section 2(b) of D.C. Law 18-42 amended section 9 of the Washington Metropolitan Area Transit Regulation Compact, in subsec. (a), struck “comptroller and” and inserted “comptroller, an inspector general, and” and struck



“manager and” and inserted “manager, inspector general, and”, redesignated subsections (d) and (e) as subsections (e) and (f), and added subsec. (d) to read as follows:

“(d) The inspector general shall report to the Board and head the Office of the Inspector General, an independent and objective unit of the Authority that conducts and supervises audits, program evaluations, and investigations relating to Authority activities; promotes economy, efficiency, and effectiveness in Authority activities; detects and prevents fraud and abuse in Authority activities; and keeps the Board fully and currently informed about deficiencies in Authority activities as well as the necessity for and progress of corrective action.”.

Section 2(b) of D.C. Law 18-42 amended section 5 of the Washington Metropolitan Area Transit Regulation Compact, in subsec. (a), struck “comptroller and” and inserted “comptroller, an inspector general, and” and struck “manager and” and inserted “manager, inspector general, and”, redesignated subsections (d) and (e) as subsections (e) and (f), respectively, and added subsec. (d) to read as follows:

“(d)(1) All payments made by the local Signatory governments for the Authority for the purpose of matching federal funds appropriated in any given year as authorized by Title VI of the Passenger Rail Investment and Improvement Act of 2008, approved October 16, 2008, (Pub. L. No. 110-432; 122 Stat. 4848), regarding funding of capital and preventive maintenance projects of the Authority shall be made from amounts derived from dedicated funding sources.

“(2) For the purposes of this subsection, a “dedicated funding source” means any source of funding that is earmarked or required under state or local law to be used to match federal appropriations authorized by Title VI of the Passenger Rail Investment and Improvement Act of 2008, approved October 16, 2008 (Pub. L. No. 110-432; 122 Stat. 4848), for payments to the Authority.”.

Section 4(b) of D.C. Law 18-42 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of WMATA Compact Emergency Amendment Act of 2009 (D.C. Act 18-16, February 23, 2009, 56 DCR 1936).

For temporary (90 day) amendment of section, see § 2 of WMATA Compact Consistency Emergency Amendment Act of 2009 (D.C. Act 18-95), May 20, 2009, 56 DCR 4314).

**Legislative history of Law 1-67.** — For legislative history of D.C. Law 1-67, see Historical and Statutory Notes following § 9-1107.03.

**Legislative history of Law 5-122.** — For legislative history of D.C. Law 5-122, see His-

torical and Statutory Notes following § 9-1107.08.

**Legislative history of Law 10-244.** — Law 10-244, the “Washington Metropolitan Area Transit Authority Compact Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-647, which was referred to the Committee on Regional Authorities and sequentially to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 1, 1994, and December 21, 1994, respectively. Signed by the Mayor on December 30, 1994, it was assigned Act No. 10-390 and transmitted to both Houses of Congress for its review. D.C. Law 10-244 became effective on March 21, 1995.

**Legislative history of Law 11-138.** — For legislative history of D.C. Law 11-138, see Historical and Statutory Notes following § 9-1103.01.

**Legislative history of Law 18-125.** — Law 18-125, the “WMATA Compact Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-81, which was referred to the Committee on Public Works and Transportation. The bill was adopted on first and second readings on December 15, 2009, and January 5, 2010, respectively. Signed by the Mayor on January 22, 2010, it was assigned Act No. 18-287 and transmitted to both Houses of Congress for its review. D.C. Law 18-125 became effective on March 23, 2010.

**Effective date.** — Section 5 of D.C. Law 11-138 provided that §§ 2, 3, and 4 shall take effect after those provisions have been adopted by the District of Columbia, the State of Maryland, and the Commonwealth of Virginia in a manner provided by law therefor, and have received the consent of Congress.

**References in text.** — “This act,” referred to in Art. VII, § 20(b) of this compact, is the Act of November 6, 1966, 80 Stat. 1324, Pub. L. 89-774.

The “Urban Mass Transportation Act of 1964” referred to in Art. XII, § 58(a) of this compact, is now codified at 49 U.S.C. § 5301 et seq.

The Davis-Bacon Act, referred to in Art. XIV, § 64 of this compact, appeared as 40 U.S.C. §§ 276a et seq. prior to enactment of Title 40 as positive law by Act Aug. 21, 2002, P.L. 107-217. For present law, see 40 U.S.C. § 3141.

The Reorganization Plan No. 14 of 1950, referred to in Art. 14, § 64, of this compact, formerly appeared at 5 U.S.C. § 133z-15. It is now codified in a note under 5 U.S.C. § 903. For present law, see 49 U.S.C. §§ 5333 and 5544.

“Contract Work Hours Standards Act” referred to in the second sentence of Art. XIV, § 64 of this compact, is codified at 40 U.S.C. § 327 et seq. “Section 7 of the Urban Mass Transportation Act of 1964” referred to in Art.



XV, § 67 of this compact, is now partly codified at 49 U.S.C. § 5324(a).

**Resolutions.** — Resolution 13-682, the “Tri-Jurisdiction Joint Legislative Commission on Interstate Transportation Emergency Resolution of 2000”, was approved effective October 17, 2000.

**Editor’s notes.** — Although the District of Columbia, the Commonwealth of Virginia, and the State of Maryland passed legislation amending various portions of the Compact in 1983-1984, Congress did not act upon these changes until 1988. Congressional approval was granted pursuant to H.J. Res. 480, Pub. L. 100-285, April 7, 1988. The Legislative History of H.J. Res. 480, H.R. Rep. 521, 100th Cong., 2d. Sess., explains that “H.J. Res. 480 represents the amendments ratified by each of the three jurisdictions which are substantially similar. . . . [P]rovisions which are not substantially similar are not included in H.J. Res. 480, and are therefore not granted the consent of the Congress.” The version of § 76(e) as passed by the Council was not included in the Resolution because there were discrepancies between the provisions adopted by the District and that adopted by Maryland and Virginia. Since Congress did not enact the amended version of § 76(e), the 1976 version as set out above is still in effect. This version, which was enacted pursuant to Pub. L. 94-306, is contained in the Washington Metropolitan Area Transit Authority Compact (1988 ed.) published by WMATA.

**Execution of Compact:** The Compact set forth in this section was signed as follows: By the Governor of Maryland, November 17, 1966; by the Governor of Virginia, November 21, 1966; and by the President of the Board of Commissioners of the District of Columbia, November 22, 1966.

**Policy of Congress:** Section 805 of the Act of December 15, 1971, 85 Stat. 659, Pub. L. 92-196, declared the policy of Congress that, to the extent that costs of the regional transit projects are not covered by the user charges, such costs would be equitably charged among the federal, District of Columbia, and participating local governments.

Mayor to enter into agreements and effective date: Section 3 of D.C. Law 10-244 provided that the Mayor of the District of Columbia shall, for the District of Columbia, enter into agreements with the Commonwealth of Virginia and the State of Maryland to make technical amendments to Title III of the Washington Metropolitan Area Transit Regulation Compact, so long as the amended version of the Compact then substantially conforms to the amendments in section 2 of the act. The technical amendments shall become effective when the Mayor executes the agreements concerning the Compact.

Land for D.C. transportation facilities: Section 1 of Pub. L. 98-340 provided that the Architect of the Capitol and the District of Columbia is directed to enter into an agreement for the conveyance of certain real property, the Secretary of the Interior is directed to permit the District of Columbia and the Washington Metropolitan Area Transit Authority to construct, maintain, and operate certain transportation improvements on federal property, and the Architect of the Capitol is directed to provide the Washington Metropolitan Area Transit Authority access to certain real property.

Adoption of amendments subject to Congressional consent: Pursuant to § 2 of D.C. Law 11-138, the District of Columbia adopted amendments to Article I of Title I and Articles III, VI, XIII, XIV, and XVI of Title III of the Washington Metropolitan Area Transit Regulation Compact as set forth in §§ 2 and 3 of the act, subject to the consent of Congress thereto and the fulfillment of the conditions in §§ 5 and 6 of the act.

For the consent of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact see Public Law 100-285, approved April 7, 1988, 102 Stat. 82.

For the consent of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact see Public Law 101-505, approved November 3, 1990, 104 Stat. 1300.

For the consent of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact see Public Law 104-322, approved October 10, 1996, 110 Stat. 3884.

For the consent and approval of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact see Public Law 105-151, approved December 16, 1997, 111 Stat. 2686.

Congressional ratification of Compact amendments:

Pub. L. 94-306 ratified D.C. Law 1-67.

Pub. L. 100-285 ratified D.C. Law 5-122 (except section 2(g)).

Pub. L. 104-322 ratified sections 4(a)-(e), (g)-(h), (j)-(k) of D.C. Law 11-138.

Pub. L. 105-151 ratified sections 4(f), (i)(2), i(3) of D.C. Law 11-138.

Pub. L. 111-62 ratified D.C. Law 18-125.

District amendments to the Compact not ratified by Congress:

D.C. Law 10-244, § 2, 42 DCR 234.

D.C. Law 11-138, § 4(i)(1), 43 DCR 2142.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(425) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The

District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CASE NOTES

### ANALYSIS

#### Actions and proceedings.

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#### Actions and proceedings.

#### — Actions involving signatories of other jurisdictions, actions and proceedings.

Section of Washington Metropolitan Transit Authority Compact waives each signatory's immunity from suit in its own courts for any proprietary functions, in accordance with laws of applicable signatory, and thus vests courts of Maryland, Virginia and District of Columbia with jurisdiction to entertain tort claims resulting from allegedly negligent operation of transit authority vehicles, because provision of mass transportation under auspices of three governmental bodies is such a function. Washington Metropolitan Area Transit Regulation

Compact, Art. XVI, § 80, D.C. Code 1973, foll. § 1-1431. *Qasim v. Washington Metropolitan Area Transit Authority*, 455 A.2d 904, 1983 D.C. App. LEXIS 305 (1983), writ of certiorari denied by 461 U.S. 929, 103 S. Ct. 2090, 77 L. Ed. 2d 300, 1983 U.S. LEXIS 4599, 51 U.S.L.W. 3825 (1983).

Interstate compact that created Washington Metropolitan Area Transit Authority contained no agreement, express or implied, granting immunity to a signatory from suits involving transit authority brought in courts of other two signatories; thus Maryland and Virginia do not have sovereign immunity from suits brought against transit authority in District of Columbia courts. *Washington Metropolitan Area Transit Regulation Compact*, Art XVI, §§ 80, 81, D.C. Code 1973, foll. § 1-1431. *Qasim v. Washington Metropolitan Area Transit Authority*, 455 A.2d 904, 1983 D.C. App. LEXIS 305 (1983), writ of certiorari denied by 461 U.S. 929, 103 S. Ct. 2090, 77 L. Ed. 2d 300, 1983 U.S. LEXIS 4599, 51 U.S.L.W. 3825 (1983).

#### — Civil rights actions.

Adoption of general policy of testing for drugs or alcohol immediately after an on-the-job accident or unusual operating incident was exercise of "governmental function" by metropolitan transit authority, as rule was certainly grounded in social, political, and regulatory activities of authority; thus, authority was immune from suit for constitutional and civil rights claims of employees discharged after substance testing following operating incident. 42 U.S.C. § 1983; D.C. Code 1981, § 1-2431, Tit. III, §§ 2, 12(c), 75, 77. *Sanders v. Washington Metropolitan Area Transit Authority*, 819 F.2d 1151, 1987 U.S. App. LEXIS 6842 (C.A.D.C. 1987).

Washington Metropolitan Area Transit Authority (WMATA) was not "person" within meaning of § 1983; WMATA was an arm of signatories to WMATA Compact. 42 U.S.C. § 1983; D.C. Code 1981, § 1-2431. *Lucero-Nelson v. Washington Metro. Area Transit Auth.*, 1 F.Supp.2d 1, 1998 U.S. Dist. LEXIS 6928



(1998), appeal dismissed by 2005 U.S. App. LEXIS 14828 (D.C. Cir. July 19, 2005).

To be liable under federal civil rights statute, person must act under color of any statute, ordinance, regulation, custom or usage, of any state or territory or District of Columbia to deprive another person of any rights, privileges, or immunities secured by Constitution and laws. 42 U.S.C. § 1983. *Saidi v. Washington Metro. Area Transit Auth.*, 928 F. Supp. 21, 1996 U.S. Dist. LEXIS 7399 (1996).

Bus driver had good faith and reasonable belief that passenger's spitting in face of driver and uttering racial epithet constituted commission of crime, and therefore driver was justified in detaining passenger, such that she could not maintain action for violation of federal civil rights statute, in light of determination that driver did not violate clearly established right of passenger. 42 U.S.C. § 1983. *Saidi v. Washington Metro. Area Transit Auth.*, 928 F. Supp. 21, 1996 U.S. Dist. LEXIS 7399 (1996).

Transit authority police had probable cause to arrest bus passenger for assaulting bus driver, and therefore qualified immunity protected police from passenger's claim under federal civil rights statute, where bus driver told police that passenger spat in his face and attempted to flee bus, and passenger refused to provide any identification. 42 U.S.C. § 1983. *Saidi v. Washington Metro. Area Transit Auth.*, 928 F. Supp. 21, 1996 U.S. Dist. LEXIS 7399 (1996).

Claim alleging that Washington Metropolitan Area Transit Authority negligently and intentionally failed properly to supervise its police force and violated federal statute governing civil action for deprivation of rights and Fourth and Fifth Amendments in connection with plaintiff's arrest fell within limited immunity retained in Authority Compact section addressing question of sovereign immunity and thus was barred by Eleventh Amendment. 42 U.S.C. § 1983; D.C. Code 1981, § 1-2431, Tit. III, § 80. U.S. Const. Amends. 4, 5, 11. *Strange v. Chumas*, 580 F. Supp. 160, 1983 U.S. Dist. LEXIS 13163 (1983).

Congressional consent and approval of interstate compact establishing transit authority, standing alone, did not render transit authority compact part of federal law for purposes of imposing liability on authority under section 1983. 42 U.S.C. § 1983. *Heffez v. Washington Metropolitan Area Transit Authority*, 569 F. Supp. 1551, 1983 U.S. Dist. LEXIS 13917 (1983), affirmed without opinion by 786 F.2d 431, 252 U.S. App. D.C. 18 (1986).

Transit authority established by interstate compact acted under color of state law for purposes of section 1983 in operation of its police force where authority's police powers were concurrent with those of its signatories and localities in which it operated, authority's

liability for contracts and torts under the compact was determined by law of applicable signatory, and compact had been approved and enacted into state law by signatories. 42 U.S.C. § 1983; Md. Code, Transportation, § 10-204; Va. Code 1950, §§ 56-529, 56-530; D.C. Code 1981, § 1-2431, Tit. III, §§ 1 et seq., 80. *Heffez v. Washington Metropolitan Area Transit Authority*, 569 F. Supp. 1551, 1983 U.S. Dist. LEXIS 13917 (1983), affirmed without opinion by 786 F.2d 431, 252 U.S. App. D.C. 18 (1986).

Transit authority established by interstate compact was not arm of the state for Eleventh Amendment purposes and thus was not entitled to state's immunity from section 1983 action where authority had substantial corporate and municipal characteristics that made it more like a local governmental unit or political subdivision than an arm of state government. U.S. Const. Amend. 11; 42 U.S.C. § 1983. *Heffez v. Washington Metropolitan Area Transit Authority*, 569 F. Supp. 1551, 1983 U.S. Dist. LEXIS 13917 (1983), affirmed without opinion by 786 F.2d 431, 252 U.S. App. D.C. 18 (1986).

#### — In general.

Operation of Washington Metropolitan Area Transit Authority police force is "governmental function" within meaning of Washington Metropolitan Area Transit Authority Compact section governing liability of Authority. D.C. Code 1981, § 1-2431 Tit. III, § 80. *Strange v. Chumas*, 580 F. Supp. 160, 1983 U.S. Dist. LEXIS 13163 (1983).

Washington Metropolitan Area Transit Authority Compact mandates collective bargaining between the Transit Authority and its employees, and it ties the National Labor Relations Act's (NLRA) definition of employee to the designation of that party with whom the Authority must bargain. *Price v. Wash. Metro. Area Transit Auth.*, 41 A.3d 526, 2012 D.C. App. LEXIS 145 (2012), reprinted as amended at 2012 D.C. App. LEXIS 273 (D.C. Apr. 12, 2012), amended by 2012 D.C. App. LEXIS 274 (D.C. May 22, 2012), writ of certiorari denied by 133 S. Ct. 571, 184 L. Ed. 2d 346, 2012 U.S. LEXIS 8547, 81 U.S.L.W. 3229 (U.S. 2012).

#### — Parties and standing, actions and proceedings.

Metro Transit police officer had standing to bring complaint against Washington Metropolitan Area Transit Authority (WMATA) and incumbent union representing officers, seeking declaration of entitlement to representational election or submission of request to arbitration. *Hill v. WMATA*, 309 F.Supp.2d 63, 2004 U.S. Dist. LEXIS 4746 (2004).

Defendant, which had contracted with Washington Metropolitan Area Transit Authority to manage construction of subway station sites, was an agent in view of agency's control with



regard to safety functions as well as control over hiring and firing of personnel and, hence, the WMATA was the proper defendant in workmen's action to recover for personal injuries allegedly sustained because of negligent failure to correct dangerous condition created by exposed rebar rods. Washington Metropolitan Area Transit Regulation Compact, Arts. I, § 1 et seq., XVI, § 80, D.C. Code 1981, foll. § 1-2431. Ludolph v. Bechtel Associates Professional Corp., D. C., 542 F. Supp. 630, 1982 U.S. Dist. LEXIS 13122 (1982).

It is clear intent of Washington Metropolitan Area Transit Authority compact that affected party have adequate opportunity to challenge Transit Authority's proposals as they may adversely affect his or her interest. D.C. Code § 1-1431 note. Bootery, Inc. v. Washington Metropolitan Area Transit Authority, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

Where United States on behalf of District of Columbia was party to Washington Metropolitan Area Transit Authority compact, general criteria for standing to challenge action under federal statute was applicable in determining standing of plaintiffs to challenge legality of mass transit plan. U.S. Const. art. 1, § 10 cl. 3; D.C. Code §§ 1-1410 note, 1-1431 note. Bootery, Inc. v. Washington Metropolitan Area Transit Authority, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

With respect to Financial Plan provided by Washington Metropolitan Area Transit Authority compact plaintiffs' standing to sue Authority to challenge plan arose from their long-accepted standing as taxpayers, the authority being agency of the District of Columbia government supported in part by district tax revenues. D.C. Code § 1-1431 note; U.S. Const. Amends. 5, 14. Bootery, Inc. v. Washington Metropolitan Area Transit Authority, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

That plaintiffs had standing as taxpayers to bring suit with regard to financial plan of Washington Metropolitan Area Transit Authority did not establish duty of federal district court to pass on merits of case; issues could be political or absolutely discretionary, or subject to only partial judicial review. D.C. Code § 1-1431 note. Bootery, Inc. v. Washington Metropolitan Area Transit Authority, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

Scope of reviewability in taxpayers' action challenging financial plan of Washington Metropolitan Area Transit Authority was limited to consideration whether Authority's actions did or might result in illegal disposition of moneys of District of Columbia or illegal creation of debt which plaintiffs would hold in common with other district taxpayers, whether Authority's actions were ultra vires or fraudulent, or arbitrary or capricious, totally lacking in factual basis. D.C. Code § 1-1431 note; U.S.

Const. Amends. 5, 14. Bootery, Inc. v. Washington Metropolitan Area Transit Authority, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

Taxpayers of District of Columbia did not have standing to challenge bond referenda in Maryland or Virginia. D.C. Code § 1-1431 note. Bootery, Inc. v. Washington Metropolitan Area Transit Authority, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

Taxpayers' action to raise issues under financial plan provided for by Washington Metropolitan Area Transit Authority compact qualified as class action where any inconsistency between interests of plaintiffs and those of other taxpayers were minimal and remote. D.C. Code § 1-1431 note; U.S. Const. Amends. 5, 14. Bootery, Inc. v. Washington Metropolitan Area Transit Authority, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

District of Columbia, its commissioner and financial officer were necessary and indispensable parties to action by leaseholding, taxpaying business operators challenging certain plans formulated by Washington Metropolitan Area Transit Authority pursuant to compact between Maryland, Virginia, and federal government on behalf of District of Columbia. Fed. Rules Civ. Proc. rule 19, 18 U.S.C.; D.C. Code § 1-1431 note. Bootery, Inc. v. Washington Metropolitan Area Transit Authority, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

Leaseholding business operators who would be dislocated by execution of mass transit plan provided for by Washington Metropolitan Area Transit Authority compact had standing to raise issue of due process under the compact or Constitution of United States; compact itself provided sufficient basis for their standing to review business dislocation provisions of mass transit plan. D.C. Code §§ 1-1410 note, 1-1431 note; 5 U.S.C. § 702; Housing Act of 1949, § 2 et seq. as amended 42 U.S.C. § 1441 et seq.; U.S. Const. Amends. 5, 14. Bootery, Inc. v. Washington Metropolitan Area Transit Authority, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

#### — Sovereign immunity, actions and proceedings.

In signing Washington Metropolitan Area Transit Authority (WMATA) Compact, Maryland, Virginia, and District of Columbia conferred upon WMATA their respective sovereign immunities. Chester v. Wash. Metro. Area Transit Auth., 335 F.Supp.2d 57, 2004 U.S. Dist. LEXIS 17861 (2004).

Court of Appeals would look to District of Columbia law to define nature of attorney's claim against Washington Metropolitan Area Transit Authority (WMATA) for breach of equitable duty to enforce attorney's lien, inasmuch as District was where obligation to pay attorney fees that generated lien arose, and inter-

state compact that created WMATA provided that WMATA was liable in accordance with law of applicable signatory. *Watters v. Wash. Metro. Area Transit Auth.*, 295 F.3d 36, 2002 U.S. App. LEXIS 14007 (C.A.D.C. 2002), writ of certiorari denied by 538 U.S. 922, 123 S. Ct. 1574, 155 L. Ed. 2d 313, 2003 U.S. LEXIS 2205, 71 U.S.L.W. 3609 (2003).

In entering into interstate compact creating Washington Metropolitan Area Transit Authority (WMATA), District of Columbia and states of Maryland and Virginia conferred each of their respective sovereign immunities, including Eleventh Amendment immunity of the two states, upon WMATA. *Watters v. Wash. Metro. Area Transit Auth.*, 295 F.3d 36, 2002 U.S. App. LEXIS 14007 (C.A.D.C. 2002), writ of certiorari denied by 538 U.S. 922, 123 S. Ct. 1574, 155 L. Ed. 2d 313, 2003 U.S. LEXIS 2205, 71 U.S.L.W. 3609 (2003).

Even if signatories to compact that created Washington Metropolitan Area Transit Authority (WMATA) had waived immunity from attorney's liens in their own courts, such that holding of *Lapides v. Board of Regents*, that when state has waived sovereign immunity on state-law claim in its own courts it waives its Eleventh Amendment immunity by removing that claim to federal court, would apply to attorney's action against WMATA for breach of duty to enforce lien, such holding would not be controlling, inasmuch as WMATA's immunity did not arise solely from Eleventh Amendment. *Watters v. Wash. Metro. Area Transit Auth.*, 295 F.3d 36, 2002 U.S. App. LEXIS 14007 (C.A.D.C. 2002), writ of certiorari denied by 538 U.S. 922, 123 S. Ct. 1574, 155 L. Ed. 2d 313, 2003 U.S. LEXIS 2205, 71 U.S.L.W. 3609 (2003).

Washington Metropolitan Area Transit Authority's (WMATA) sovereign immunity from attorney's suit for breach of equitable duty to enforce attorney's lien was not waived; WMATA compact section providing that WMATA could "[s]ue and be sued" was not clear and equivocal waiver of WMATA's immunity against attorney's charging liens, and, even if breach of attorney's lien were covered by such section, attorney could not have placed lien on WMATA's property under law of compact's signatories. *Watters v. Wash. Metro. Area Transit Auth.*, 295 F.3d 36, 2002 U.S. App. LEXIS 14007 (C.A.D.C. 2002), writ of certiorari denied by 538 U.S. 922, 123 S. Ct. 1574, 155 L. Ed. 2d 313, 2003 U.S. LEXIS 2205, 71 U.S.L.W. 3609 (2003).

Gap left by Washington Metropolitan Area Transit Authority Compact's failure to state whether employees had immunity from suit where Authority itself had immunity because alleged torts occurred in exercise of governmental or discretionary functions was essentially federal issue, resolvable pursuant to federal

common law; Compact had its roots in congressionally authorized studies, Congress played particularly active role in Authority's creation, federal government contributed significantly to construction and operation of Authority's transportation system, Authority operated in three jurisdictions but ran its core policy-making functions in one central District of Columbia headquarters, and resorting to laws of individual signatories could expose policymakers to different, possibly inconsistent immunity rules. D.C. Code 1981, § 1-2431, Tit. III, § 1 et seq. *Beebe v. Washington Metro. Area Transit Auth.*, 129 F.3d 1283, 1997 U.S. App. LEXIS 33683 (C.A.D.C. 1997).

Washington Metropolitan Area Transit Authority's employees enjoy absolute immunity from state-law tort actions when conduct at issue falls within scope of their official duties and conduct is discretionary in nature. *Beebe v. Washington Metro. Area Transit Auth.*, 129 F.3d 1283, 1997 U.S. App. LEXIS 33683 (C.A.D.C. 1997).

Washington Metropolitan Area Transit Authority officials could not be sued for any contractual claims; Authority's compact waived sovereign immunity for contractual disputes, and made Authority the exclusive defendant where Authority was liable. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Beebe v. Washington Metro. Area Transit Auth.*, 129 F.3d 1283, 1997 U.S. App. LEXIS 33683 (C.A.D.C. 1997).

Material question of fact as to whether nuisance resulting from Metrorail system was based on negligent design or improper operation precluded finding that, as a matter of law, Washington Metropolitan Area Transit Authority was immune with respect to homeowner's claim. D.C. Code 1981, § 1-2431. *Beatty v. Washington Metropolitan Area Transit Authority*, 860 F.2d 1117, 1988 U.S. App. LEXIS 14749 (C.A.D.C. 1988).

It was appropriate to follow congressional understanding in tort cases of "governmental function," in interpreting interstate compact establishing metropolitan transit authority for District of Columbia, as Congress had played particularly active role in creating transit authority, had initiated compact, and expressly retained authority's immunity from suit for torts occurring in performance of governmental function, and under compact tort suits involving governmental function were quite dissimilar from suits involving "proprietary function," which were controlled by the law of the applicable signatory state. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Sanders v. Washington Metropolitan Area Transit Authority*, 819 F.2d 1151, 1987 U.S. App. LEXIS 6842 (C.A.D.C. 1987).

Operation of police force by Washington Metropolitan Area Transit Authority, as created by compact signed by Maryland and Virginia and



District of Columbia, included promulgation and enforcement of police regulations and, therefore, Authority was entitled to sovereign immunity under compact section providing that Authority would not be liable for any torts occurring in performance of governmental function. D.C. Code 1981, § 1-2431, Tit. III, §§ 80, 81. *Morris v. Washington Metropolitan Area Transit Authority*, 781 F.2d 218, 1986 U.S. App. LEXIS 21242 (C.A.D.C. 1986).

Maryland and Virginia, as signatories to compact creating Washington Metropolitan Area Transit Authority, conferred Eleventh Amendment immunity from suit upon Authority, where judgment against Authority would directly affect treasuries of states. D.C. Code 1981, § 1-2431, Tit. III, §§ 2, 80; U.S. Const. Amend. 11. *Morris v. Washington Metropolitan Area Transit Authority*, 781 F.2d 218, 1986 U.S. App. LEXIS 21242 (C.A.D.C. 1986).

District of Columbia's participation in creating Washington Metropolitan Area Transit Authority did not destroy Authority's Eleventh Amendment immunity from suit which was validly conferred upon it by states of Maryland and Virginia. D.C. Code 1981, § 1-2431, Tit. III, §§ 2, 80; U.S. Const. Amend. 11. *Morris v. Washington Metropolitan Area Transit Authority*, 781 F.2d 218, 1986 U.S. App. LEXIS 21242 (C.A.D.C. 1986).

Bus passenger's suit against Washington Metropolitan Transit Authority (WMATA) alleging that driver's negligent operation of the bus caused her to fall after she had boarded the bus but before she sat down, was barred by sovereign immunity to the extent passenger challenged WMATA's policy of allowing drivers to proceed with standing passengers, since policy was the product of a discretionary decision. *Robinson v. Washington Metropolitan Area Transit Authority*, 2012 WL 1513053 (2012).

Bus passenger's suit against Washington Metropolitan Transit Authority (WMATA), alleging driver's negligent operation of the bus caused her to fall after she had boarded the bus but before she sat down, was not barred by sovereign immunity to the extent passenger claimed that the driver was negligent in not following WMATA's safety directives by failing to comply with WMATA's rule that he check that passengers were secure and prepared for vehicle movement and by failing to follow WMATA's directive that bus drivers start gradually, stop smoothly, and turn slowly; these directives specifically prescribed guidelines for passenger safety which, on their face, left driver no choice but to adhere. *Robinson v. Washington Metropolitan Area Transit Authority*, 2012 WL 1513053 (2012).

Washington Metropolitan Area Transit Authority (WMATA) was protected, under District of Columbia Code, by sovereign immunity from traffic clerk's claims of defamation, wrongful

termination, and intentional infliction of emotional distress, which involved discretionary personnel decisions. *Headen v. Wash. Metro. Area Transit Auth.*, 741 F.Supp.2d 289, 2010 U.S. Dist. LEXIS 106561 (2010).

District of Columbia's transit authority's decision to disregard an alleged agreement to negotiate exclusively with developer and instead pursue other means of disposing of its real property was protected by sovereign immunity, and therefore authority was not liable for fraud, breach of fiduciary duty and failure to implement policies to govern the disposition of the property; compact signed by Maryland, Virginia, and the District of Columbia left room for the exercise of discretion in fashioning the scope and breadth of authority's policies concerning the disposition of real estate, and that discretion was grounded in social, economic, or political goals. *Monument Realty LLC v. Wash. Metro. Area Transit Auth.*, 535 F.Supp.2d 60, 2008 U.S. Dist. LEXIS 14073 (2008).

Washington Metropolitan Area Transit Authority (WMATA) was protected by sovereign immunity from liability arising from allegedly negligent design and construction of one of its bus shelters. *Plater v. District of Columbia DOT*, 530 F.Supp.2d 101, 2008 U.S. Dist. LEXIS 11 (2008).

Doctrine of sovereign immunity barred Washington Metropolitan Area Transit Authority (WMATA) employee's claims for intentional infliction of emotional distress, stemming from supervisors' actions in, e.g., temporarily denying employee vacation, suggesting employee's annual review should be changed to "unsatisfactory" because of his disability, asking employee to "hot stick" third rail, forcing employee to use rotary hammer drill, seeking disciplinary action against employee because of his disability, forcing employee to work under less senior co-worker, and denying employee sick leave; those actions were based entirely on discretionary rather than ministerial activities. *Hopps v. Wash. Metro. Area Transit Auth.*, 480 F.Supp.2d 243, 2007 U.S. Dist. LEXIS 22863 (2007), appeal dismissed by 2007 U.S. App. LEXIS 21752 (D.C. Cir. Sept. 10, 2007).

For those Washington Metropolitan Area Transit Authority (WMATA) activities that are not quintessential governmental functions, immunity will depend on whether the activity is discretionary or ministerial; only discretionary functions, which are those that involve choice or judgment, and are based on considerations of public policy, are shielded by immunity. *Hopps v. Wash. Metro. Area Transit Auth.*, 480 F.Supp.2d 243, 2007 U.S. Dist. LEXIS 22863 (2007), appeal dismissed by 2007 U.S. App. LEXIS 21752 (D.C. Cir. Sept. 10, 2007).

Washington Metropolitan Area Transit Authority (WMATA) is immune from torts relating to events that took place in performance of



governmental as opposed to proprietary function, including hiring and firing decisions. *Dove v. Wash. Metro. Area Transit Auth.*, 402 F.Supp.2d 91, 2005 U.S. Dist. LEXIS 17954 (2005), affirmed by 2006 U.S. App. LEXIS 6184 (D.C. Cir. Mar. 13, 2006).

Washington Metropolitan Area Transit Authority (WMATA) was immune from African-American employee's retaliation and wrongful termination claims; WMATA was immune from all tort suits stemming from personnel decisions, including alleged intentional torts. *Chester v. Wash. Metro. Area Transit Auth.*, 335 F.Supp.2d 57, 2004 U.S. Dist. LEXIS 17861 (2004).

In case of activities which are not quintessential governmental functions, immunity question turns on whether activity is discretionary or ministerial; only discretionary acts fall within Washington Metropolitan Area Transit Authority (WMATA) Compact's retention of sovereign immunity for governmental acts. *Chester v. Wash. Metro. Area Transit Auth.*, 335 F.Supp.2d 57, 2004 U.S. Dist. LEXIS 17861 (2004).

In order to distinguish proprietary functions from governmental functions, court first inquires whether challenged activity amounts to quintessential governmental function, like law enforcement; if so, activity falls within scope of Washington Metropolitan Area Transit Authority's (WMATA's) sovereign immunity. *Chester v. Wash. Metro. Area Transit Auth.*, 335 F.Supp.2d 57, 2004 U.S. Dist. LEXIS 17861 (2004).

Under Washington Metropolitan Area Transit Authority Compact, Washington Metropolitan Area Transit Authority (WMATA) is not immune from breach of contract claims on employment issues to which it consented to be contractually bound. *Martin v. Wash. Metro. Area Transit Auth.*, 273 F.Supp.2d 114, 2003 U.S. Dist. LEXIS 18629 (2003).

Washington Metropolitan Area Transit Authority Compact did not waive Washington Metropolitan Area Transit Authority's (WMATA) sovereign immunity against bus driver's promissory estoppel claim based on WMATA's assurances that it would follow its published hiring procedures. *Martin v. Wash. Metro. Area Transit Auth.*, 273 F.Supp.2d 114, 2003 U.S. Dist. LEXIS 18629 (2003).

Washington Metropolitan Area Transit Authority Compact waived Washington Metropolitan Area Transit Authority's (WMATA) defense of sovereign immunity against bus driver's claims for breach of contract and breach of implied duty of good faith and fair dealing based on alleged contract under which WMATA agreed to follow its published hiring procedures. *Martin v. Wash. Metro. Area Transit Auth.*, 273 F.Supp.2d 114, 2003 U.S. Dist. LEXIS 18629 (2003).

Under Washington Metropolitan Area Transit Authority (WMATA) Compact, demotion of employee by WMATA was discretionary choice made in its administration of personnel, and thus WMATA was immune from liability for employee's allegedly wrongful demotion. *Taylor v. Washington Metro. Area Transit Auth.*, 109 F.Supp.2d 11, 2000 U.S. Dist. LEXIS 11575 (2000), affirmed by 2000 U.S. App. LEXIS 35427 (D.C. Cir. Dec. 20, 2000).

Decisions made by transit authority with regard to design of buses were protected by sovereign immunity. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Warren v. Washington Metro. Area Transit Auth.*, 880 F. Supp. 14, 1995 U.S. Dist. LEXIS 2540 (1995).

Washington Metropolitan Area Transit Authority (WMATA) was protected by sovereign immunity in commuter's action alleging that negligent design of escalator resulted in her fall and injury when heel of shoe became caught in slot of escalator tread at metro station; WMATA's policy decisions and judgments regarding design of escalator were governmental functions. D.C. Code 1981, § 1-2431. *Jones v. Washington Metro. Area Transit Authority*, 742 F. Supp. 24, 1990 U.S. Dist. LEXIS 10312 (1990).

Punitive damages may not be assessed against Washington Metropolitan Area Transit Authority, interstate state agency between Maryland, Virginia and District of Columbia, under doctrine of sovereign immunity. U.S.C. Const.Amend. 11. *Teart v. Washington Metropolitan Area Transit Authority*, 686 F. Supp. 12, 1988 U.S. Dist. LEXIS 5028 (1988).

Washington Metropolitan Area Transit Authority is entitled to Eleventh Amendment immunity; disagreeing with *Heffez v. WMATA*, 569 F.Supp. 1551 (D.D.C.). U.S. Const.Amend. 11. *Clarke v. Washington Metropolitan Area Transit Authority*, 654 F. Supp. 712, 1985 U.S. Dist. LEXIS 16329 (1985), affirmed by 808 F.2d 137, 257 U.S. App. D.C. 242 (1987).

Drug tests required by metropolitan transit authority after employees were engaged in operating incident and discharge of those employees based upon results of tests were for common good of all and constituted "governmental function" for which authority had not waived Eleventh Amendment immunity, rather than "proprietary function." *Metropolitan Area Transit Authority Compact*, Art. 1 et seq., 80 Stat. 1324; U.S. Const.Amend. 11; D.C. Code 1981, § 1-2431. *Sanders v. Washington Metropolitan Area Transit Authority*, 652 F. Supp. 765, 1986 U.S. Dist. LEXIS 30730 (1986), affirmed by 819 F.2d 1151, 260 U.S. App. D.C. 359, 1987 U.S. App. LEXIS 6842, 43 Empl. Prac. Dec. (CCH) P37105, 2 I.E.R. Cas. (BNA) 287, 125 L.R.R.M. (BNA) 2772 (1987).

In determining whether Washington Metropolitan Area Transit Authority was within sov-

foreign immunity protection of Eleventh Amendment, court could not ignore likelihood that judgment against Authority would have essentially same practical significance as judgment against states themselves. D.C. Code 1981, § 1-2431, Tit. III, § 29; Md.Code, Transportation, § 10-205; Va.Acts, 1982, c. 684, § 1; U.S.C. Const.Amend. 11. *Strange v. Chumas*, 580 F. Supp. 160, 1983 U.S. Dist. LEXIS 13163 (1983).

Design and planning of transportation system are governmental activities in light of discretionary, quasi-legislative policy decisions that are involved, and, thus, Washington Metropolitan Area Transit Authority is immune from alleged acts of negligence in design and planning of transportation facilities. D.C. Code 1981, § 1-2431(80). *McKethen v. Washington Metro. Area Transit Authority*, 588 A.2d 708, 1991 D.C. App. LEXIS 70 (1991).

Provision in interstate compact establishing metropolitan transit authority which drew proprietary function-governmental function distinction between acts for which authority would be liable could not be judicially construed to deny sovereign immunity where compact's language and legislative history clearly retained immunity. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Hall v. Washington Metropolitan Area Transit Authority*, 468 A.2d 970, 1983 D.C. App. LEXIS 540 (1983).

Provision in interstate compact establishing metropolitan transit authority which subjected transit authority police to same limitations on power as signatory's police did not constitute waiver of sovereign immunity where that provision was not intended to amend provision affording authority sovereign immunity. D.C. Code 1981, § 1-2431, Tit. III, §§ 76(b), 80. *Hall v. Washington Metropolitan Area Transit Authority*, 468 A.2d 970, 1983 D.C. App. LEXIS 540 (1983).

#### **Arrest powers.**

Washington Metropolitan Area Transit Authority (WMATA) police officials cannot patrol the streets of the District of Columbia, making traffic stops and/or arrests, unless the offenses in question originated on or against WMATA facilities. *United States v. Simon*, 368 F.Supp.2d 73, 2005 U.S. Dist. LEXIS 5357 (2005).

Washington Metropolitan Area Transit Authority (WMATA) police officer had no authority, under District of Columbia law, to stop defendant's vehicle, absent any evidence that defendant placed someone in immediate danger or was involved in criminal activity on or near any subway stations or bus stops; defendant's offense of driving through a stop line on a city street, near a transit facility, did not constitute an offense against WMATA property. *United*

*States v. Simon*, 368 F.Supp.2d 73, 2005 U.S. Dist. LEXIS 5357 (2005).

Transit authority police had probable cause to arrest bus passenger for assaulting bus driver, and therefore police were protected by qualified immunity from any claim passenger had for malicious prosecution, where bus driver told police that passenger spat in his face and attempted to flee bus, and passenger refused to provide any identification. *Saidi v. Washington Metro. Area Transit Auth.*, 928 F. Supp. 21, 1996 U.S. Dist. LEXIS 7399 (1996).

Where defendant was confronted late at night by uniformed, armed Washington Metropolitan Transit Authority police officer who accused defendant of driving without license and requested license and vehicle registration from car's other occupant, activated revolving red light on his vehicle, proceeded to conduct radio checks of documents he obtained, did not return documents, did not tell defendant and other occupant that they were free to leave, and drew his weapon, defendant was seized, at least in sense of an investigatory stop, triggering Fourth Amendment safeguards. *U.S. Const.Amend. 4. United States v. Foster*, 566 F. Supp. 1403, 1983 U.S. Dist. LEXIS 15608 (1983).

Washington Metropolitan Area Transit Authority police officer had no jurisdiction to conduct investigative stop of defendant, who was not operating motor vehicle on transit authority's property, and where there was no indication that defendant was involved in criminal activity on or near any subway station or bus stop; officer's conduct violated defendant's Fourth Amendment rights and evidence obtained as result of that misconduct should have been suppressed. *U.S. Const.Amend. 4; D.C. Code 1981, § 1-2431, Tit. III, §§ 76, 76(b); U.S. Const.Amend. 4. United States v. Foster*, 566 F. Supp. 1403, 1983 U.S. Dist. LEXIS 15608 (1983).

Transit authority established by interstate compact was not liable to employee for false arrest, malicious prosecution, and abuse of process resulting from employee's arrest and charge for embezzlement where actions of transit police in arresting the employee were a proprietary function for which the compact afforded the authority sovereign immunity. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Hall v. Washington Metropolitan Area Transit Authority*, 468 A.2d 970, 1983 D.C. App. LEXIS 540 (1983).

Transit authority established by interstate compact was not liable under theory of respondeat superior for acts of its police in arresting employee for embezzlement where provision in the compact providing for sovereign immunity applied to acts of employees. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Hall v. Washington*



Metropolitan Area Transit Authority, 468 A.2d 970, 1983 D.C. App. LEXIS 540 (1983).

#### **Bonds and other securities.**

Whether maximum interest rate for bonds to be issued by Washington Metropolitan Area Transit Authority was sufficient was question of congressional judgment and not question for court, and same was true of issue whether recommended interest rates would be sufficient if less than maximum. D.C. Code § 1-1431 note. *Bootery, Inc. v. Washington Metropolitan Area Transit Authority*, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

#### **Construction with federal law.**

Washington Metropolitan Area Transit Authority compact exempts Authority from Federal Employers' Liability Act. D.C. Code 1981, § 1-2431; Federal Employers' Liability Act, § 1 et seq., 45 U.S.C. § 51 et seq. *McKenna v. Washington Metropolitan Area Transit Authority*, 829 F.2d 186, 1987 U.S. App. LEXIS 12538 (C.A.D.C. 1987).

Because Washington Metropolitan Area Transit Authority was not legally required to provide compensation insurance for employees of its subcontractors on subway construction project, but did so as a matter of administrative convenience, its voluntary decision to provide that insurance did not entitle it to the statutory employer immunity of Longshoremen's and Harbor Workers' Compensation Act. Longshoremen's and Harbor Workers' Compensation Act, § 5(a), as amended, 33 U.S.C. § 905(a). *Johnson v. Bechtel Assocs. Professional Corp.*, 717 F.2d 574, 1983 U.S. App. LEXIS 24723 (C.A.D.C. 1983), reversed by, remanded by 467 U.S. 925, 104 S. Ct. 2827, 81 L. Ed. 2d 768, 1984 U.S. LEXIS 122, 52 U.S.L.W. 4869, 49 Cal. Comp. Cases 816 (1984).

In interpreting Washington Metropolitan Area Transit Authority (WMATA) Compact, WMATA did not abuse its discretion in following National Labor Relations Board (NLRB) precedent and denying petition for representation election under contract bar doctrine. *Hill v. WMATA*, 309 F.Supp.2d 63, 2004 U.S. Dist. LEXIS 4746 (2004).

Even if contribution into special fund created by provision of Longshoremen's and Harbor Workers' Compensation Act [33 U.S.C. § 944(c)(2)], which requires payments into special fund established to discourage discrimination against disabled by providing supplemental compensation to such claimants who are injured during course of their employment, was tax, transit authority's tax exemption was not applicable, where exemption only protected transit authority from taxes and assessments on its property, activities or revenues, and payments into fund were not such taxations. Longshoremen's and Harbor Workers' Compensa-

sation Act, § 44(c)(2), 33 U.S.C. § 944(c)(2). *Donovan v. Washington Metropolitan Area Transit Authority*, 614 F. Supp. 1419, 1985 U.S. Dist. LEXIS 17685 (1985), affirmed by 796 F.2d 481, 254 U.S. App. D.C. 190, 1986 U.S. App. LEXIS 27074 (1986).

Congress and adopting states intended that Washington Metropolitan Area Transit Authority be arm of state government rather than political subdivision akin to a municipality. D.C. Code 1981, § 1-2431, Title III, §§ 1, 2, 4; Va.Acts 1966, c. 2, § 3; Md.Acts 1965, c. 869, § 1 et seq. *Strange v. Chumas*, 580 F. Supp. 160, 1983 U.S. Dist. LEXIS 13163 (1983).

#### **Electrical and other utilities.**

Fact that transit authority extended its subway service for approximately two miles did not mandate that the Public Service Commission adjust electric utility's test year revenues upward an additional \$627,035, attributable to transit authority's projected increase in electricity consumption due to extension of the subway service, where the electric utility demonstrated that there was no assurance that periodic increases in demand would be repeated in future billings, and that transit authority's actual demands in April of 1982 were lower than demand recorded in April of 1981, despite extension of subway service in December of 1981. *Washington Metropolitan Area Transit Authority v. Public Service Com.*, 486 A.2d 682, 1984 D.C. App. LEXIS 583 (1984).

Transit authority's immunity from taxation was not infringed because a component of its electric rate served to reimburse electric utility for gross receipts tax it must pay, so as to entitle transit authority to a rate discount equal to its proportionate share of the gross receipts tax paid by the electric utility, since the tax is merely one of many costs which an electric utility must bear in order to provide electric service to its customers, and since the legal incidence of the tax remains at all time on the utility. D.C. Code 1981, §§ 1-2431, Tit. III, § 78, 47-2501. *Washington Metropolitan Area Transit Authority v. Public Service Com.*, 486 A.2d 682, 1984 D.C. App. LEXIS 583 (1984).

#### **Eminent domain.**

Fact that Washington Metropolitan Area Transit Authority had been informed that a list of owners of burial rights could be obtained at cemetery's office and would be furnished at the Authority's expense did not constitute "knowledge" within rule that, on the commencement of condemnation action, plaintiff need join as defendants only the persons having or claiming interest in the property whose names are then known; thus, where vestry of parish was fee title owner, Authority was not required to join holders of burial rights at commencement of action. Fed.Rules Civ.Proc. rules 71A,



71A(c)(2), 18 U.S.C. Washington Metropolitan Area Transit Authority v. One Parcel of Land in District of Columbia Vestry of Rock Creek Parish, 514 F.2d 1350, 1975 U.S. App. LEXIS 14081 (C.A.D.C. 1975).

Order of possession to allow the Washington Metropolitan Area Transit Authority to conduct test boring in cemetery was subject to review by the Court of Appeals where, had such Court not stayed the order, the Authority would have taken possession and completed its borings before any review could have been had, leaving cemetery owner without remedy. D.C. Code § 16-1365. Washington Metropolitan Area Transit Authority v. One Parcel of Land in District of Columbia Vestry of Rock Creek Parish, 514 F.2d 1350, 1975 U.S. App. LEXIS 14081 (C.A.D.C. 1975).

Whether or not Congress explicitly or implicitly authorized the Washington Metropolitan Area Transit Authority to condemn cemetery property, the Authority could condemn a property interest in the cemetery for the limited purpose of making eight test borings to determine feasibility of tunnel under the cemetery where, inter alia, taking would be limited to 30 days, borings would be made in roadway so that no grave would be physically disturbed, and access to all graves would be maintained at all times. Washington Metropolitan Area Transit Authority Compact, § 82, D.C. Code § 1-1431 note. Washington Metropolitan Area Transit Authority v. One Parcel of Land in District of Columbia Vestry of Rock Creek Parish, 514 F.2d 1350, 1975 U.S. App. LEXIS 14081 (C.A.D.C. 1975).

### Financial planning.

Washington Metropolitan Area Transit Authority's financial plan was sufficient to meet criteria envisioned by Congress when it approved Washington Metropolitan Area Transit Authority compact. D.C. Code § 1-1431 note. Bootery, Inc. v. Washington Metropolitan Area Transit Authority, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

### Findings and orders.

Where there was full administrative record to facilitate review of board of directors of Washington Metropolitan Area Transit Authority's decision on transit system alignment, board was not required to make findings of fact or reasons for decision for purposes of judicial review. Washington Metropolitan Area Transit Authority Compact, D.C. Code following section 1-1431. Birnberg v. Washington Metropolitan Area Transit Authority, 389 F. Supp. 340, 1975 U.S. Dist. LEXIS 13815 (1975).

Washington Metropolitan Area Transit Authority board of directors was not required to make statement of findings or reasons to support its decisions, since board was a quasi-

legislative body engaged in planning and construction of rapid rail transit system and, as such, its decisions were not subject to any constitutional or statutory due process requirement mandating findings or reasons. Washington Metropolitan Area Transit Authority Compact, D.C. Code following section 1-1431. Birnberg v. Washington Metropolitan Area Transit Authority, 389 F. Supp. 340, 1975 U.S. Dist. LEXIS 13815 (1975).

Decisions of Washington Metropolitan Area Transit Authority must be based on complete record expressing views of all recognized interests, particularly those interests expressly recognized by compact. D.C. Code § 1-1431 note; 5 U.S.C. § 702. Bootery, Inc. v. Washington Metropolitan Area Transit Authority, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

### Hearings.

Board of directors of Washington Metropolitan Area Transit Authority would be presumed to have read and properly considered all items in record of public hearings in making their decision on rapid rail transit system alignment. Washington Metropolitan Area Transit Authority Compact, D.C. Code following section 1-1431. Birnberg v. Washington Metropolitan Area Transit Authority, 389 F. Supp. 340, 1975 U.S. Dist. LEXIS 13815 (1975).

Flexibility should be accorded Washington Metropolitan Area Transit Authority in determining precise nature of its public hearings on basis of technical considerations; cross-examination would be pointless, but counsel and experts for parties should be given opportunity to criticize Authority's proposals and to present their own alternatives and respond to criticisms of those alternatives. D.C. Code § 1-1431 note; U.S. Const. Amends. 5, 14; 5 U.S.C. § 702. Bootery, Inc. v. Washington Metropolitan Area Transit Authority, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

Where counsel for leaseholding business operators were present at three meetings held by Washington Metropolitan Area Transit Authority but were unable to respond to criticisms of alternative plan because no notice had been given of Authority's staff's position, and counsel was not allowed to respond on date of subsequent meeting, Authority Board shirked its responsibility by providing inadequate opportunity for business operators to address board itself, and latter were entitled to public hearing conducted by board and de novo consideration by board of such alternative proposal. D.C. Code § 1-1431 note; U.S. Const. Amends. 5, 14; 5 U.S.C. § 702. Bootery, Inc. v. Washington Metropolitan Area Transit Authority, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

### Judicial review.

In reviewing disputes that arise under "disputes" clause of transit authority's subway con-

tracts, Court of Appeals applies contractually prescribed standard of review which allows court to reverse determinations of transit authority's general manager when they are arbitrary, capricious, unsupported by substantial evidence, or incorrect as a matter of law. *General Ry. Signal Co. v. Washington Metropolitan Area Transit Authority*, 875 F.2d 320, 1989 U.S. App. LEXIS 6535 (C.A.D.C. 1989), writ of certiorari denied by 494 U.S. 1056, 110 S. Ct. 1524, 108 L. Ed. 2d 764, 1990 U.S. LEXIS 1629, 58 U.S.L.W. 3614 (1990).

The hiring, training and supervising of Washington Metropolitan Area Transit Authority (WMATA) employees are governmental functions, and thus are immune from judicial review. *Hopps v. Wash. Metro. Area Transit Auth.*, 480 F.Supp.2d 243, 2007 U.S. Dist. LEXIS 22863 (2007), appeal dismissed by 2007 U.S. App. LEXIS 21752 (D.C. Cir. Sept. 10, 2007).

Decisions concerning hiring, training, and supervision of Washington Metropolitan Area Transit Authority (WMATA) employees are discretionary in nature, and thus immune from judicial review. *Chester v. Wash. Metro. Area Transit Auth.*, 335 F.Supp.2d 57, 2004 U.S. Dist. LEXIS 17861 (2004).

Because of severe result of depriving plaintiffs of their property under mass transit plan, court in deciding whether Washington Metropolitan Area Transit Authority's reading of compact was unreasonable or lacked rational foundation would apply attitude of reasonable strictness. D.C. Code § 1-1431 note; *U.S. Const. Amends. 5, 14. Bootery, Inc. v. Washington Metropolitan Area Transit Authority*, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

## **Labor relations.**

### **— Arbitration, labor relations.**

Compact establishing metropolitan transit authority which declared all unresolved labor disputes be submitted to final and binding arbitration required that discharged employees submit their claim for negligent termination, if unsettled, to final and binding arbitration. D.C. Code 1981, § 1-2431, Tit. III, § 66(c). *Sanders v. Washington Metropolitan Area Transit Authority*, 819 F.2d 1151, 1987 U.S. App. LEXIS 6842 (C.A.D.C. 1987).

For purposes of determining whether issue has to be submitted to arbitration under Washington Metropolitan Area Transit Authority (WMATA) Compact, issue that relates to union representation is not "question concerning representation" unless there is substantial, reasonable doubt about whether incumbent union should be recognized collective bargaining agent of employees; party has raised "question concerning representation" if it demonstrates that union is not entitled to represent employ-

ees or if there is reasonable doubt about union's status. *Hill v. WMATA*, 309 F.Supp.2d 63, 2004 U.S. Dist. LEXIS 4746 (2004).

Refusal of Washington Metropolitan Area Transit Authority (WMATA) to hold representation election was not "question concerning representation" that had to be submitted to arbitration under WMATA Compact. *Hill v. WMATA*, 309 F.Supp.2d 63, 2004 U.S. Dist. LEXIS 4746 (2004).

Representation-election quarrels are not "labor disputes" within meaning of Washington Metropolitan Area Transit Authority (WMATA) Compact, and WMATA employees have no right thereunder to arbitrate them. *Hill v. WMATA*, 309 F.Supp.2d 63, 2004 U.S. Dist. LEXIS 4746 (2004).

Refusal of Washington Metropolitan Area Transit Authority (WMATA) to hold representation election was not labor dispute "involving the Authority" as required for dispute to be arbitrable under WMATA Compact. *Hill v. WMATA*, 309 F.Supp.2d 63, 2004 U.S. Dist. LEXIS 4746 (2004).

Employee's Title VII claims against Washington Metropolitan Area Transit Authority (WMATA) were not subject to compulsory arbitration under WMATA compact; in consenting to compact, Congress did not intend to preclude one class of employees, that is, WMATA employees, from filing Title VII claims in federal court, and compact provided that only those labor disputes where collective bargaining does not result in agreement are to be submitted to arbitration, while Title VII claim in question had not been submitted to arbitration. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.; Civil Rights Act of 1991, § 118, 42 U.S.C. § 1981 note. *Gary v. Washington Metro. Area, Transit Auth.*, 886 F. Supp. 78, 1995 U.S. Dist. LEXIS 6364 (1995).

Washington Metropolitan Area Transit Authority employee's failure to present to final and binding arbitration his claim that his termination and subsequent reinstatement breached his contract warranted dismissal of claim for failure to exhaust WMATA Compact's remedies. D.C. Code 1981, § 1-2431, Tit. III, § 66(c). *Hawthorne v. Washington Metropolitan Area Transit Authority*, 702 F. Supp. 285, 1988 U.S. Dist. LEXIS 15163 (1988).

Where statutory intent behind Washington Metropolitan Area Transit Regulation Compact was to provide most efficacious means for peaceful settlement of all labor disputes so as to prevent work stoppages which would disrupt transit services, and Compact conferred upon parties the private right to insist upon three arbitrators because parties agreed that such right would promote labor peace, right would be waivable if parties agreed upon other means for preserving peace, especially when arbitration provision of Compact was unable to pre-



serve that peace. Washington Metropolitan Area Transit Regulation Compact, Art. XIV, § 66(c), D.C. Code 1981, foll. § 1-2431. Office & Professional Employees International Union v. Washington Metropolitan Area Transit Authority, 552 F. Supp. 622, 1982 U.S. Dist. LEXIS 17092 (1982), affirmed without opinion by 713 F.2d 865, 230 U.S. App. D.C. 71 (1983).

Failure of arbitration section of Washington Metropolitan Area Transit Regulation Compact to make provision for enforcement did not limit sanction to force of public opinion such as to deprive court of jurisdiction to enforce arbitration award. Washington Metropolitan Area Transit Regulation Compact, Art. XIV, § 66(c), D.C. Code 1981, foll. § 1-2431. Office & Professional Employees International Union v. Washington Metropolitan Area Transit Authority, 552 F. Supp. 622, 1982 U.S. Dist. LEXIS 17092 (1982), affirmed without opinion by 713 F.2d 865, 230 U.S. App. D.C. 71 (1983).

Plenary review of arbitration awards on merits is barred by language of Washington Metropolitan Area Transit Regulation Compact, which provides that arbitration awards shall be "final and binding on all matters in dispute." Washington Metropolitan Area Transit Regulation Compact, Art. XIV, § 66(c), D.C. Code 1981, foll. § 1-2431. Office & Professional Employees International Union v. Washington Metropolitan Area Transit Authority, 552 F. Supp. 622, 1982 U.S. Dist. LEXIS 17092 (1982), affirmed without opinion by 713 F.2d 865, 230 U.S. App. D.C. 71 (1983).

Question of whether certain employees were supervisory, managerial or confidential was "question concerning representation" within meaning of section of Washington Metropolitan Area Transit Regulation Compact defining labor dispute as including "questions concerning representation," and thus where arbitration provision of Compact provided that "any labor dispute" which did not result in agreement was to go to arbitration, issue was within arbitrator's jurisdiction and would not be reviewed by district court. Washington Metropolitan Area Transit Regulation Compact, Art. XIV, § 66(c), D.C. Code 1981, foll. § 1-2431. Office & Professional Employees International Union v. Washington Metropolitan Area Transit Authority, 552 F. Supp. 622, 1982 U.S. Dist. LEXIS 17092 (1982), affirmed without opinion by 713 F.2d 865, 230 U.S. App. D.C. 71 (1983).

Standards to be applied on review of "final and binding" arbitration awards under Washington Metropolitan Area Transit Regulation Compact are failure of award to comply with requirements of Compact, failure of award to confine itself to matters within its jurisdiction, and fraud or corruption. Washington Metropolitan Area Transit Regulation Compact, Art. XIV, § 66(c), D.C. Code 1981, foll. § 1-2431; Railway Labor Act, §§ 1-208, 3, subd. 1(m, q),

45 U.S.C. §§ 151-188, 153, subd. 1(m, q). Office & Professional Employees International Union v. Washington Metropolitan Area Transit Authority, 552 F. Supp. 622, 1982 U.S. Dist. LEXIS 17092 (1982), affirmed without opinion by 713 F.2d 865, 230 U.S. App. D.C. 71 (1983).

Where no term of Washington Metropolitan Area Transit Regulation Compact explicitly provided that contracts contravening its provisions for three arbitrators are void, resort could be had to balancing test of restatement 2d of contracts to determine enforceability of such an agreement. Washington Metropolitan Area Transit Regulation Compact, Art. XIV, § 66(c), D.C. Code 1981, foll. § 1-2431. Office & Professional Employees International Union v. Washington Metropolitan Area Transit Authority, 552 F. Supp. 622, 1982 U.S. Dist. LEXIS 17092 (1982), affirmed without opinion by 713 F.2d 865, 230 U.S. App. D.C. 71 (1983).

Where transit authority for metropolitan area voluntarily proceeded before one arbitrator, it waived any right to object to any lack of compliance with Washington Metropolitan Area Transit Regulation Compact, which provided for compulsory arbitration before three arbitrators. Washington Metropolitan Area Transit Regulation Compact, Art. XIV, § 66(c), D.C. Code 1981, foll. § 1-2431; Railway Labor Act, § 7, subd. 1, 45 U.S.C. § 157, subd. 1. Office & Professional Employees International Union v. Washington Metropolitan Area Transit Authority, 552 F. Supp. 622, 1982 U.S. Dist. LEXIS 17092 (1982), affirmed without opinion by 713 F.2d 865, 230 U.S. App. D.C. 71 (1983).

#### — In general.

Like any District of Columbia employer, Washington Metropolitan Area Transit Authority can bind itself contractually in personnel manual. Beebe v. Washington Metro. Area Transit Auth., 129 F.3d 1283, 1997 U.S. App. LEXIS 33683 (C.A.D.C. 1997).

Policies in Washington Metropolitan Area Transit Authority's personnel manual encouraging internal promotion and responsible supervision were not clear enough to overcome presumption that employee was employed at-will. Beebe v. Washington Metro. Area Transit Auth., 129 F.3d 1283, 1997 U.S. App. LEXIS 33683 (C.A.D.C. 1997).

Discharged employees of metropolitan transit authority who filed grievances pursuant to interstate compact establishing authority were precluded from renewing claim that authority negligently implemented drug testing plan by failing to use due care in administering and confirming tests, absent claim that grievance process was unfair or flawed. Sanders v. Washington Metropolitan Area Transit Authority, 819 F.2d 1151, 1987 U.S. App. LEXIS 6842 (C.A.D.C. 1987).



Discharged employees of metropolitan transit authority who failed to pursue grievance process of compact establishing authority as required for labor disputes had failed to exhaust their grievance and arbitration proceedings and could not seek redress in court on claims which could have been grieved. *Sanders v. Washington Metropolitan Area Transit Authority*, 819 F.2d 1151, 1987 U.S. App. LEXIS 6842 (C.A.D.C. 1987).

Discharged probationary employee who did not invoke internal grievance process, and who did not have access to grievance proceedings under interstate compact establishing transit authority, could be discharged by transit authority at its own discretion, without sufficient cause for termination; thus, probationary employee had no judicial claim for negligent termination. *Sanders v. Washington Metropolitan Area Transit Authority*, 819 F.2d 1151, 1987 U.S. App. LEXIS 6842 (C.A.D.C. 1987).

Presumption that original employment contract has been renewed from year to year if parties continue the employment relationship without a new agreement was properly applied to support conclusion that contract of an employee of predecessor of the Washington Metropolitan Area Transit Authority, which contained an integration clause providing that contract could not be modified, extended or varied except in writing signed by both parties, was extended by the Authority after acquiring predecessor's assets. D.C. Code § 1-1461 et seq.; *Washington Metropolitan Area Transit Regulation Compact*, subd. 1 et seq., D.C. Code § 1-1431 note. *Vogel v. Washington Metropolitan Area Transit Authority*, 533 F.2d 13, 1976 U.S. App. LEXIS 11919 (C.A.D.C. 1976).

Bonus sought under employment contract by sales director for the Washington Metropolitan Area Transit Authority was not contrary to public policy on theory that it contravenes public policy for public employee to receive a bonus, where legislature had mandated such bonus under section of the Authority's compact obligating it to maintain all employee benefits so that no employee transferred from predecessor was put in a worse position than he was prior to his move. *Washington Metropolitan Area Transit Regulation Compact*, subd. 66(e), D.C. Code § 1-1431 note. *Vogel v. Washington Metropolitan Area Transit Authority*, 533 F.2d 13, 1976 U.S. App. LEXIS 11919 (C.A.D.C. 1976).

Washington Metropolitan Area Transit Authority (WMATA) is not an "employer" within meaning of NLRA. *Dove v. Wash. Metro. Area Transit Auth.*, 402 F.Supp.2d 91, 2005 U.S. Dist. LEXIS 17954 (2005), affirmed by 2006 U.S. App. LEXIS 6184 (D.C. Cir. Mar. 13, 2006).

Washington Metropolitan Area Transit Authority (WMATA) employee could not seek redress in court on claims that could and should

have been grieved; rule amounted to form of collateral estoppel, or issue preclusion, prohibiting nongrieved complaints from being brought when employee had opportunity and obligation to do so. *Chester v. Wash. Metro. Area Transit Auth.*, 335 F.Supp.2d 57, 2004 U.S. Dist. LEXIS 17861 (2004).

African-American Washington Metropolitan Area Transit Authority (WMATA) employee failed to exhaust grievance procedures of collective bargaining agreement (CBA) with regard to counts of wrongful refusal to place him in available position or to train him for new position following his discharge, discriminatory hiring of white persons for positions he could have filled, and wrongful refusal to promote him to retiring supervisor's position for which he allegedly was most qualified candidate; none of those claims had been submitted to arbitration. *Chester v. Wash. Metro. Area Transit Auth.*, 335 F.Supp.2d 57, 2004 U.S. Dist. LEXIS 17861 (2004).

Washington Metropolitan Area Transit Authority (WMATA) Compact, not Federal Labor Relations Act (FLRA) or NLRA, governs collective bargaining relationship between WMATA and its employees and their representatives. *Hill v. WMATA*, 309 F.Supp.2d 63, 2004 U.S. Dist. LEXIS 4746 (2004).

If transit authority for metropolitan area was prepared at all times to bargain with union local over issue of salary adjustments, transit authority did not have to grant local's members automatic increase based on established policy during negotiations with local. *Washington Metropolitan Area Transit Regulation Compact*, Art. XIV, § 66(b, c), D.C. Code 1981, foll. § 1-2431; D.C. Code 1981, § 1-2414. *Office & Professional Employees International Union v. Washington Metropolitan Area Transit Authority*, 552 F. Supp. 622, 1982 U.S. Dist. LEXIS 17092 (1982), affirmed without opinion by 713 F.2d 865, 230 U.S. App. D.C. 71 (1983).

Washington Metropolitan Area Transit Regulation Compact imposes obligation upon employer to continue prior policy of granting automatic wage increases during negotiations with its union. *Washington Metropolitan Area Transit Regulation Compact*, Art. XIV, § 66(b, c), D.C. Code 1981, foll. § 1-2431. *Office & Professional Employees International Union v. Washington Metropolitan Area Transit Authority*, 552 F. Supp. 622, 1982 U.S. Dist. LEXIS 17092 (1982), affirmed without opinion by 713 F.2d 865, 230 U.S. App. D.C. 71 (1983).

Where automatic wage increases were standing and long-existing policy of transit authority for metropolitan area, and at no time was union local afforded opportunity to bargain over matter, transit authority, which withheld from local's members cost of living wage adjustments granted to nonrepresented employees during negotiations with local, was required to grant

such adjustments to local's members. Washington Metropolitan Area Transit Regulation Compact, Art. XIV, § 66(b, c), D.C. Code 1981, foll. § 1-2431. *Office & Professional Employees International Union v. Washington Metropolitan Area Transit Authority*, 552 F. Supp. 622, 1982 U.S. Dist. LEXIS 17092 (1982), affirmed without opinion by 713 F.2d 865, 230 U.S. App. D.C. 71 (1983).

Even if public interest existed in adhering strictly to provisions of Washington Metropolitan Area Transit Regulation Compact for three arbitrators, and thus employer's agreement to proceed before one arbitrator in labor dispute was illegal contract, where agreement was signed as result of arms-length bargaining and of difficulty in complying with Compact's directive, it was practical solution to difficult situation and involved no misconduct of any sort, forfeiture resulting to union would be great if enforcement were denied, and public policy that would be furthered by unwavering adherence to Compact's provisions would be outweighed by public interest in speedily resolving labor disputes by means agreeable to labor and management, agreement was nonetheless enforceable. *Washington Metropolitan Area Transit Regulation Compact*, Art. XIV, § 66(c), D.C. Code 1981, foll. § 1-2431. *Office & Professional Employees International Union v. Washington Metropolitan Area Transit Authority*, 552 F. Supp. 622, 1982 U.S. Dist. LEXIS 17092 (1982), affirmed without opinion by 713 F.2d 865, 230 U.S. App. D.C. 71 (1983).

Use of term "deal with" in provision of Washington Metropolitan Area Transit Regulation Compact requiring transit authority to "deal with" its unions serves to broaden, rather than narrow, range of responsibilities imposed upon transit authority and does not relieve parties of responsibility of bargaining in good faith. *Washington Metropolitan Area Transit Regulation Compact*, Art. XIV, § 66(b, c), D.C. Code 1981, foll. § 1-2431; D.C. Code 1981, § 1-2414. *Office & Professional Employees International Union v. Washington Metropolitan Area Transit Authority*, 552 F. Supp. 622, 1982 U.S. Dist. LEXIS 17092 (1982), affirmed without opinion by 713 F.2d 865, 230 U.S. App. D.C. 71 (1983).

#### Law governing.

Federal law governs interpretation of Washington Metropolitan Area Transit Authority Compact's terms if Congress has not provided that state law governs question. D.C. Code 1981, § 1-2431, Tit. III, § 1 et seq. *Beebe v. Washington Metro. Area Transit Auth.*, 129 F.3d 1283, 1997 U.S. App. LEXIS 33683 (C.A.D.C. 1997).

Actions based upon public authority's contract are governed by law of applicable signatory to Washington Metropolitan Area Transit Authority Compact. D.C. Code 1981, § 1-2431.

*Nello L. Teer Co. v. Washington Metro. Area Transit Auth.*, 921 F.2d 300, 1990 U.S. App. LEXIS 21291 (C.A.D.C. 1990), remanded by 995 F.2d 305, 301 U.S. App. D.C. 405, 1993 U.S. App. LEXIS 21393 (1993).

Because agreement to arbitrate was established by metropolitan transit authority compact, and because compact was not a contract evidencing a transaction involving commerce, the United States Arbitration Act did not apply to an arbitration dispute. 9 U.S.C. §§ 1 et seq., 2; D.C. Code 1981, § 1-2431. *Office & Professional Employees International Union, Local 2 v. Washington Metropolitan Area Transit Authority*, 724 F.2d 133, 1983 U.S. App. LEXIS 14333 (C.A.D.C. 1983).

*Washington Metropolitan Area Transit Authority (WMATA)*, established by compact among Washington, D.C., Maryland, and Virginia, was not subject to employment discrimination claims under District of Columbia Human Rights Act; no signatory could impose its legislative enactment on WMATA without express consent of the other signatories and of Congress. D.C. Code 1981, §§ 1-2431, 1-2501 et seq. *Lucero-Nelson v. Washington Metro. Area Transit Auth.*, 1 F.Supp.2d 1, 1998 U.S. Dist. LEXIS 6928 (1998), appeal dismissed by 2005 U.S. App. LEXIS 14828 (D.C. Cir. July 19, 2005).

Whether function performed by Washington Metropolitan Area Transit Authority (MATA) is proprietary or governmental is question of federal law because MATA Compact is act of Congress. D.C. Code 1981, § 1-2431, subd. 80. *Wainwright v. Washington Metro. Area Transit Auth.*, 903 F. Supp. 133, 163 F.R.D. 391, 1995 U.S. Dist. LEXIS 15427 (1995).

Because Congress granted its consent to Washington Metropolitan Area Transit Authority's Compact, question whether WMATA and its employees were acting in governmental or proprietary function was one of federal law. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Hawthorne v. Washington Metropolitan Area Transit Authority*, 702 F. Supp. 285, 1988 U.S. Dist. LEXIS 15163 (1988).

Administrative Procedure Act did not apply to Washington Metropolitan Area Transit Authority inasmuch as Authority was not federal agency. *Washington Metropolitan Area Transit Authority Compact*, D.C. Code following section 1-1431. *Birnberg v. Washington Metropolitan Area Transit Authority*, 389 F. Supp. 340, 1975 U.S. Dist. LEXIS 13815 (1975).

Clause in compact creating Washington Metropolitan Area Transit Authority (WMATA), which approved transportation agreement between the District of Columbia, Maryland and Virginia did not transform WMATA into a federal agency for purposes of the bribery statute. D.C. Code 1981, §§ 1-2431, § 2, 22-712(a)(2).



Colbert v. United States, 601 A.2d 603, 1992 D.C. App. LEXIS 18 (1992).

### **Nature of authority.**

Under waiver stipulation of compact creating metropolitan transit authority, what is not waived remains intact. D.C. Code 1981, § 1-2431, subd. 80. *Wainwright v. Washington Metro. Area Transit Auth.*, 903 F. Supp. 133, 163 F.R.D. 391, 1995 U.S. Dist. LEXIS 15427 (1995).

Washington Metropolitan Area Transit Authority Compact, adopted as law in Virginia, Maryland and in District of Columbia and approved by Congress, has force and effect of state law in each state and force and effect of federal law. D.C. Code 1981, § 1-2431, Tit. III, § 1; Va.Acts 1966, c. 2, § 3; Md.Acts 1965, c. 869, § 1 et seq. *Strange v. Chumas*, 580 F. Supp. 160, 1983 U.S. Dist. LEXIS 13163 (1983).

Washington Metropolitan Area Transit Authority is merely agency of each of signatory parties to compact, including United States on behalf of District of Columbia. D.C. Code §§ 1-1410 note, 1-1431 note. *Bootery, Inc. v. Washington Metropolitan Area Transit Authority*, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

Stated policy of Washington Metropolitan Area Transit Authority compact reflects recognition that complex legal and financial obstacles to completion of transit system demand administrative flexibility which allows limited tradeoffs as opposed to perfect equitable apportionment of obligations in each type of financing instrument. D.C. Code § 1-1431 note. *Bootery, Inc. v. Washington Metropolitan Area Transit Authority*, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

### **Official acts.**

Decisions of Washington Metropolitan Area Transit Authority board of directors were entitled to presumption of validity. *Washington Metropolitan Area Transit Authority Compact*, D.C. Code following section 1-1431. *Birnberg v. Washington Metropolitan Area Transit Authority*, 389 F. Supp. 340, 1975 U.S. Dist. LEXIS 13815 (1975).

Quorum of board of directors of Washington Metropolitan Area Transit Authority was not required to be present at public hearings on transit system alignment. *Washington Metropolitan Area Transit Authority Compact*, D.C. Code following section 1-1431. *Birnberg v. Washington Metropolitan Area Transit Authority*, 389 F. Supp. 340, 1975 U.S. Dist. LEXIS 13815 (1975).

It was not necessary that members of board of directors of Washington Metropolitan Area Transit Authority who attended public hearings on transit system alignment be same board members who ultimately voted to adopt

alignment discussed at public hearings. *Washington Metropolitan Area Transit Authority Compact*, D.C. Code following section 1-1431. *Birnberg v. Washington Metropolitan Area Transit Authority*, 389 F. Supp. 340, 1975 U.S. Dist. LEXIS 13815 (1975).

District court would not probe mental processes of members of board of directors of Washington Metropolitan Area Transit Authority to test manner and extent of their consideration of record of public hearings on transit system alignment. *Washington Metropolitan Area Transit Authority Compact*, D.C. Code following section 1-1431. *Birnberg v. Washington Metropolitan Area Transit Authority*, 389 F. Supp. 340, 1975 U.S. Dist. LEXIS 13815 (1975).

### **Public contracts.**

Accurate approximation of reasonable cost of originally contemplated trenching work was \$360,548, and thus, contract price would be equitably adjusted to remove that cost when transit authority decided it did not need trenching work; that estimate was based on another contractor's estimate that transit authority obtained at time parties were attempting to negotiate settlement of equitable adjustment. *General Ry. Signal Co. v. Washington Metropolitan Area Transit Authority*, 875 F.2d 320, 1989 U.S. App. LEXIS 6535 (C.A.D.C. 1989), writ of certiorari denied by 494 U.S. 1056, 110 S. Ct. 1524, 108 L. Ed. 2d 764, 1990 U.S. LEXIS 1629, 58 U.S.L.W. 3614 (1990).

The \$1.3 million figure allocated to trenching work for subway system by subcontractor in bid to transit authority did not presumptively reflect reasonable costs for that work and could not be used in equitably adjusting contract price when transit authority decided it did not need trenching; bid prices for trenching were supplied by subcontractor only after subcontract had been executed on lump-sum basis and line items which led to \$1.3 million figure were apparently based on flat rate per linear foot that could not be supported in hearings. *General Ry. Signal Co. v. Washington Metropolitan Area Transit Authority*, 875 F.2d 320, 1989 U.S. App. LEXIS 6535 (C.A.D.C. 1989), writ of certiorari denied by 494 U.S. 1056, 110 S. Ct. 1524, 108 L. Ed. 2d 764, 1990 U.S. LEXIS 1629, 58 U.S.L.W. 3614 (1990).

In action for "equitable adjustment" under dispute clause of contract with Washington Metropolitan Area Transit Authority, refusal by general manager of Authority, who was empowered to make final decision under disputes clause, to award contractor its claim for extended home office overhead after contractor was denied access to some parts of construction site was error, in that United States Army Corps of Engineers Board of Contract Appeals, which was designated by Authority to hear contractors' appeals from contracting officers'



decisions and whose opinion was reviewed by general manager, had in fact determined that contractor had actually been damaged by such delay. *George Hyman Constr. Co. v. Washington Metro. Area Transit Auth.*, 621 F. Supp. 898, 1985 U.S. Dist. LEXIS 14970 (1985), affirmed by 816 F.2d 753, 259 U.S. App. D.C. 449, 1987 U.S. App. LEXIS 5657, 34 Cont. Cas. Fed. (CCH) P75261 (1987).

In action for "equitable adjustment" under dispute clause of contract with Washington Metropolitan Area Transit Authority, Virginia law was applied in determining whether contractor was entitled to recover costs of capital expended in financing increased costs caused by delays of Authority, in that there was no indication as to place of execution of contract, and contract was substantially performed in Virginia. *George Hyman Constr. Co. v. Washington Metro. Area Transit Auth.*, 621 F. Supp. 898, 1985 U.S. Dist. LEXIS 14970 (1985), affirmed by 816 F.2d 753, 259 U.S. App. D.C. 449, 1987 U.S. App. LEXIS 5657, 34 Cont. Cas. Fed. (CCH) P75261 (1987).

Claim by contractor for cost of capital expended in financing increased costs caused by delays of Washington Metropolitan Area Transit Authority was, in essence, one for lost profit and, thus, was precluded by suspension of work clause of contract with Authority. *George Hyman Constr. Co. v. Washington Metro. Area Transit Auth.*, 621 F. Supp. 898, 1985 U.S. Dist. LEXIS 14970 (1985), affirmed by 816 F.2d 753, 259 U.S. App. D.C. 449, 1987 U.S. App. LEXIS 5657, 34 Cont. Cas. Fed. (CCH) P75261 (1987).

Where government took unreasonable amount of time in processing claims for extra work required by changes that it had ordered in its original contract, contractor was entitled to interest from time, after completion of work, when it first requested payment until government made final payment, plus interest in statutory amount on sum of that interest from time of final payment until paid. D.C. Code 1973, §§ 1-1431 note, 15-109. *General Ry. Signal Co. v. Washington Metropolitan Area Transit Authority*, 527 F. Supp. 359, 1979 U.S. Dist. LEXIS 8587 (1979), affirmed by 664 F.2d 296, 214 U.S. App. D.C. 170, 1980 U.S. App. LEXIS 11597 (1980).

Administrative determination of Washington Metropolitan Area Transit Authority that contracting officer did not take unreasonable amount of time in processing contractor's two claims for extra work required by changes that WMATA had ordered in its original contract, and that contractor was thus not entitled to interest, was not supported by substantial evidence. *Wunderlich Act*, §§ 1, 2, 41 U.S.C. §§ 321, 322. *General Ry. Signal Co. v. Washington Metropolitan Area Transit Authority*, 527 F. Supp. 359, 1979 U.S. Dist. LEXIS 8587 (1979),

affirmed by 664 F.2d 296, 214 U.S. App. D.C. 170, 1980 U.S. App. LEXIS 11597 (1980).

"Federal interest" in the Washington Metropolitan Area Transit Authority Compact called for application of general standing criteria to the case, a test which was easily met by plaintiff elevator company which sought a temporary restraining order to prevent WMATA from awarding certain elevator construction contract to the intervenor on the ground that plaintiff's low bid was allegedly "non-responsive". 18 U.S.C. §§ 1331, 1361, 2201, 2202; D.C. Code § 1-1434. *Otis Elevator Co. v. Washington Metropolitan Area Transit Authority*, 432 F. Supp. 1089, 1976 U.S. Dist. LEXIS 11670 (1976).

### Public improvements.

Plaintiff's bid on elevator construction contract for the Washington Metropolitan Area Transit Authority could not reasonably have been declared to be nonresponsive by WMATA simply because it failed to specify percentages for a trade category, iron workers, which WMATA deemed to be necessary to the performance of the contract. *Otis Elevator Co. v. Washington Metropolitan Area Transit Authority*, 432 F. Supp. 1089, 1976 U.S. Dist. LEXIS 11670 (1976).

Decision of board of directors of Washington Metropolitan Area Transit Authority to build segment of rapid rail transit system under certain street was not arbitrary, capricious, or irrational. *Washington Metropolitan Area Transit Authority Compact*, D.C. Code following section 1-1431. *Birnberg v. Washington Metropolitan Area Transit Authority*, 389 F. Supp. 340, 1975 U.S. Dist. LEXIS 13815 (1975).

Federal district court could not substitute its judgment for that of Washington Metropolitan Area Transit Authority with respect to choice of details of engineering design. D.C. Code § 1-1431 note. *Bootery, Inc. v. Washington Metropolitan Area Transit Authority*, 326 F. Supp. 794, 1970 U.S. Dist. LEXIS 9414 (1970).

### Tort liability.

Under the Washington Metropolitan Area Transit Authority (WMATA) Compact, as amended in 1976, a metro transit police officer engaged in a criminal investigation and an arrest has the same powers and limitations as a member of the District of Columbia Metropolitan Police Department, and consequently has only qualified immunity, not absolute immunity, for his torts, though the WMATA itself is cloaked with absolute immunity for torts arising in the exercise of governmental functions. *Griggs v. Washington Metro. Area Transit Auth.*, 232 F.3d 917, 2000 U.S. App. LEXIS 30151 (C.A.D.C. 2000), dismissed by 2002 U.S. Dist. LEXIS 18413 (D.D.C. Sept. 30, 2002).

Washington Metropolitan Area Transit Authority (WMATA) transit police officer did not

have absolute immunity with respect to his alleged actions, when he responded to a call for assistance from the District of Columbia Metropolitan Police Department, in not only failing properly to train his "vicious" dog, but instead commanding the dog to attack arrestee after arrestee had complied with officer's order to stand and place his hands on his head, and failing to command the dog to cease its attack. *Griggs v. Washington Metro. Area Transit Auth.*, 232 F.3d 917, 2000 U.S. App. LEXIS 30151 (C.A.D.C. 2000), dismissed by 2002 U.S. Dist. LEXIS 18413 (D.D.C. Sept. 30, 2002).

Washington Metropolitan Area Transit Authority waived its exhaustion defense to employee's tort claims by not responding in timely fashion to employee's grievance. D.C. Code 1981, § 1-2431, Tit. III, § 66(c). *Beebe v. Washington Metro. Area Transit Auth.*, 129 F.3d 1283, 1997 U.S. App. LEXIS 33683 (C.A.D.C. 1997).

To determine whether Washington Metropolitan Area Transit Authority employee's function is discretionary, and thus shielded by sovereign immunity, court asks whether any statute, regulation, or policy specifically prescribes course of action for employee to follow. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Beebe v. Washington Metro. Area Transit Auth.*, 129 F.3d 1283, 1997 U.S. App. LEXIS 33683 (C.A.D.C. 1997).

Activity that amounts to quintessential governmental function, like law enforcement, falls within scope of Washington Metropolitan Area Transit Authority's sovereign immunity. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Beebe v. Washington Metro. Area Transit Auth.*, 129 F.3d 1283, 1997 U.S. App. LEXIS 33683 (C.A.D.C. 1997).

If Washington Metropolitan Area Transit Authority employee's exercise of discretion is grounded in social, economic, or political goals, activity is "governmental," thus falling within Washington Metropolitan Area Transit Authority's retention of sovereign immunity. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Beebe v. Washington Metro. Area Transit Auth.*, 129 F.3d 1283, 1997 U.S. App. LEXIS 33683 (C.A.D.C. 1997).

Washington Metropolitan Area Transit Authority's appointment of individual to oversee reorganization of office, and activities of Authority official's during reorganization, including creating and abolishing positions and deciding whom to hire or retain were discretionary functions for which Authority enjoyed sovereign immunity. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Beebe v. Washington Metro. Area Transit Auth.*, 129 F.3d 1283, 1997 U.S. App. LEXIS 33683 (C.A.D.C. 1997).

Sovereign immunity of Washington Metropolitan Area Transit Authority (WMATA) barred bus passenger's claims against WMATA for negligent hiring, training and supervision of

its bus operators; hiring, training and supervision of WMATA personnel were governmental functions. D.C. Code 1981, § 1-2431, subd. 80. *Burkhart v. Washington Metro. Area Transit Auth.*, 112 F.3d 1207, 1997 U.S. App. LEXIS 11371 (C.A.D.C. 1997).

District court had original jurisdiction over employee's common-law tort claims against Washington Metropolitan Area Transit Authority (WMATA), her employer. D.C. Code 1981, § 1-2431(81). *Gary v. Long*, 59 F.3d 1391, 1995 U.S. App. LEXIS 19976 (C.A.D.C. 1995).

Washington Metropolitan Area Transit Authority (WMATA) Compact did not waive WMATA's Eleventh Amendment immunity to nuisance suit challenging noise level that fell within WMATA's adopted guideline policy for metrorail system, even though WMATA never held public hearings or formal proceedings, or made any official comments to "adopt" noise and vibration control program; WMATA had consistently held program out as embodying its noise level guidelines and had actually followed program's limits, and it would have been unduly formalistic to require WMATA to hold official proceeding before it could be considered to have adopted program in exercise of its governmental discretion. U.S.C. Const. Amend. 11; D.C. Code 1981, § 1-2431, subd. 80. *Souders v. Washington Metro. Area Transit Auth.*, 48 F.3d 546, 1995 U.S. App. LEXIS 4241 (C.A.D.C. 1995).

Washington Metropolitan Area Transit Authority (WMATA), an instrumentality of Maryland, Virginia and District of Columbia created by interstate compact, benefitted from state-level immunity of Maryland and Virginia, thus precluding relief on claim that WMATA, like municipal corporations, could not assert immunity in nuisance action. U.S. Const. Amend. 11; D.C. Code 1981, § 1-2431, subd. 80. *Souders v. Washington Metro. Area Transit Auth.*, 48 F.3d 546, 1995 U.S. App. LEXIS 4241 (C.A.D.C. 1995).

United States could validly consent only to suits against Washington Metropolitan Area Transit Authority, which was created by compact signed by Maryland, Virginia and District of Columbia, for torts committed in conduct of any proprietary function, expressly retaining immunity from suit for torts occurring in performance of governmental function. D.C. Code 1981, § 1-2431, Tit. III, § 80; U.S.C. Const. Art. 1, § 8, cl. 17. *Morris v. Washington Metropolitan Area Transit Authority*, 781 F.2d 218, 1986 U.S. App. LEXIS 21242 (C.A.D.C. 1986).

Under provision of the Washington Metropolitan Area Transit Authority Compact establishing the WMATA contract and tort liability and stating that the authority would be liable for the torts of its agents, the term "agent" includes both independent contractors and servants. D.C. Code 1981, § 1-2431, Tit. XVI, § 80. *John-*



son v. Bechtel Assocs. Professional Corp., 717 F.2d 574, 1983 U.S. App. LEXIS 24723 (C.A.D.C. 1983), reversed by, remanded by 467 U.S. 925, 104 S. Ct. 2827, 81 L. Ed. 2d 768, 1984 U.S. LEXIS 122, 52 U.S.L.W. 4869, 49 Cal. Comp. Cases 816 (1984).

Under District of Columbia law, transit authority is not insurer of safety of its passengers, but owes to them reasonable degree of care. *Saidi v. Washington Metro. Area Transit Auth.*, 928 F. Supp. 21, 1996 U.S. Dist. LEXIS 7399 (1996).

Transit authority's statutory immunity for suits involving performance of governmental functions did not apply to purchaser's claims against transit authority concerning maintenance of property containing leaking underground storage tanks (USTs). D.C. Code 1981, § 1-2431. 325-343 E. 325-343 E. 56th St. Corp. v. Mobil Oil Corp., 906 F. Supp. 669, 1995 U.S. Dist. LEXIS 16895 (1995).

Immunity waiver in compact creating metropolitan transit authority attached to proprietary, ministerial functions, and nature of function rather than cause of action under which suit was litigated governed issue of whether authority was entitled to immunity. D.C. Code 1981, § 1-2431, subd. 80. *Wainwright v. Washington Metro. Area Transit Auth.*, 903 F. Supp. 133, 163 F.R.D. 391, 1995 U.S. Dist. LEXIS 15427 (1995).

Metropolitan transit authority's "governmental function" immunity extended to strict liability claims for failure to warn of dangers associated with escalators in its facilities and for design defects in those escalators. D.C. Code 1981, § 1-2431, subd. 80. *Wainwright v. Washington Metro. Area Transit Auth.*, 903 F. Supp. 133, 163 F.R.D. 391, 1995 U.S. Dist. LEXIS 15427 (1995).

While metropolitan transit authority was immune from tort liability with regard to design and planning of its transportation system, and such immunity extended to escalators at its facilities, authority's immunity was waived for ministerial acts of supervision and training, and plaintiff injured on escalator could pursue claims for negligence in performing such acts. D.C. Code 1981, § 1-2431, subd. 80. *Wainwright v. Washington Metro. Area Transit Auth.*, 903 F. Supp. 133, 163 F.R.D. 391, 1995 U.S. Dist. LEXIS 15427 (1995).

In view of fact that metropolitan transit authority was immune from strict liability in tort for alleged design defects in escalators at its facilities, authority was also entitled to immunity in connection with claim characterized as one for breach of implied warranty but in fact involving same allegations that escalator was defective. D.C. Code 1981, § 1-2431, subd. 80. *Wainwright v. Washington Metro. Area Transit Auth.*, 903 F. Supp. 133, 163

F.R.D. 391, 1995 U.S. Dist. LEXIS 15427 (1995).

Even assuming that Washington Metropolitan Area Transit Authority employee's claim that WMATA's failure to reinstate him four months after his acquittal constituted "an untrue representation to plaintiff's coworkers that plaintiff had broken into and entered the farecard machine and was taking cash therefrom" was actionable as defamation, it related to a discretionary decision on part of WMATA, protected by sovereign immunity. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Hawthorne v. Washington Metropolitan Area Transit Authority*, 702 F. Supp. 285, 1988 U.S. Dist. LEXIS 15163 (1988).

Washington Metropolitan Area Transit Authority employee's allegations of false arrest and imprisonment, malicious prosecution, assault and battery, negligence and deprivation of constitutional rights, all generated from operation of WMATA's police force, fell within WMATA Compact's "government function" exemption from liability. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Hawthorne v. Washington Metropolitan Area Transit Authority*, 702 F. Supp. 285, 1988 U.S. Dist. LEXIS 15163 (1988).

Washington Metropolitan Area Transit Authority was immune from liability concerning customer's allegation that Authority failed to adequately control crowds at subway station, causing customer to step from crowded subway car into gap between car and platform; Authority's operation of its police force was a governmental function and immune from suit. *Simpson v. Washington Metropolitan Area Transit Authority*, 688 F. Supp. 765, 1988 U.S. Dist. LEXIS 7218 (1988).

The Washington Metropolitan Area Transit Authority is exempt from liability under the Federal Employers' Liability Act, by virtue of an express provision regarding tort liability in the Compact creating the Authority, and could not be held liable in damages under the Act for work-related death of one of its employees. Federal Employers' Liability Act, § 1 et seq., 45 U.S.C. § 51 et seq.; D.C. Code 1981, § 1-2431, Tit. III, § 80. *McKenna v. Washington Metropolitan Area Transit Authority*, 670 F. Supp. 7, 1986 U.S. Dist. LEXIS 23382 (1986), affirmed by 829 F.2d 186, 264 U.S. App. D.C. 401, 1987 U.S. App. LEXIS 12538 (1987).

Washington Metropolitan Area Transit Authority, created pursuant to interstate compact between Maryland, Virginia and the District of Columbia, as agency and instrumentality of all three jurisdictions, was immune from tort liability unless its sovereign immunity had been waived by the interstate compact or subsequent amendment. D.C. Code 1981, §§ 1-2431, 1-2431, Tit. III, § 4. *Nathan v. Washington Metropolitan Area Transit Authority*, 653 F. Supp. 247, 1986 U.S. Dist. LEXIS 20114 (1986).



Planning decisions regarding design, location and construction of stairwell at transit station involved Washington Metropolitan Area Transit Authority's government function, subject to sovereign immunity under provision of interstate compact between Maryland, Virginia and District of Columbia, which created transit authority as agency and instrumentality of the three jurisdictions. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Nathan v. Washington Metropolitan Area Transit Authority*, 653 F. Supp. 247, 1986 U.S. Dist. LEXIS 20114 (1986).

Language of section of Metropolitan Area Transit Authority compact stating that metro transit police shall have the same powers, including the power to arrest, and shall be subject to the same limitations, including regulatory limitations, in the performance of their duties as members of the duly constituted police force of the political subdivision in which the metro transit police members are engaged, did not explicitly state or implicitly suggest that signatories to compact or Congress waived Metropolitan Area Transit Authority's immunity for torts committed by its transit police officers so that language of compact expressly establishing Authority's immunity remained unchanged. U.S. Const. Amend. 11; D.C. Code 1981, § 1-2431; 18 U.S.C. § 1447(c). *Keenan v. Washington Metropolitan Area Transit Authority*, 643 F. Supp. 324, 1986 U.S. Dist. LEXIS 21028 (1986).

General principles of statutory construction would prohibit adoption of forced construction of Washington Metropolitan Area Transit Authority Compact section governing jurisdiction of actions brought by or against Authority which would render language of preceding section governing liability of Authority inconsistent and therefore meaningless. D.C. Code 1981, § 1-2431, Tit. III, §§ 80, 81. *Strange v. Chumas*, 580 F. Supp. 160, 1983 U.S. Dist. LEXIS 13163 (1983).

Transit authority established by interstate compact which provided that authority would not be liable for any torts occurring in performance of governmental function was not liable for willfully failing to exercise proper supervision and control over police officers or vicariously liable for tortious acts of officers in making an arrest where officers were engaged in governmental function in making the arrest. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Heffez v. Washington Metropolitan Area Transit Authority*, 569 F. Supp. 1551, 1983 U.S. Dist. LEXIS 13917 (1983), affirmed without opinion by 786 F.2d 431, 252 U.S. App. D.C. 18 (1986).

Transit authority established by interstate compact which provided that authority would be liable for torts of its employees in conduct of any proprietary function but not in performance of governmental function was liable for conduct of station attendant in making an arrest where attendant was acting in proprie-

tary function of managing subway station for authority. D.C. Code 1981, § 1-2431, Tit. III, § 80. *Heffez v. Washington Metropolitan Area Transit Authority*, 569 F. Supp. 1551, 1983 U.S. Dist. LEXIS 13917 (1983), affirmed without opinion by 786 F.2d 431, 252 U.S. App. D.C. 18 (1986).

Section of compact creating Washington Metropolitan Area Transit Authority which stated that Authority was liable for torts of its agents and that exclusive remedy for breach of contracts and torts for which Authority was liable was by suit against Authority barred plaintiff's tort action against contractor with which Authority had contracted to oversee safety of subway project and to administer various construction contracts in the field, in that despite contractor's independent contractor status, terms of the contract contemplated that the parties intended to establish an agency relationship. D.C. Code 1981, § 1-2431, Art. 16, subd. 80. *Johnson v. Bechtel Associates Professional Corp.*, D. C., 545 F. Supp. 783, 1982 U.S. Dist. LEXIS 14247 (1982), affirmed in part and reversed in part by 717 F.2d 574, 230 U.S. App. D.C. 297, 1983 U.S. App. LEXIS 24723, 1984 A.M.C. 2999 (1983).

Suit against Washington Metropolitan Area Transit Authority for damages resulting from abduction and rape of patron as she left WMATA's parking lot was barred by sovereign immunity insofar as it alleged that WMATA provided inadequate police protection, a governmental function; however, suit was not barred by sovereign immunity insofar as it took issue with precautions taken by WMATA as parking lot owner for safety of its patrons, i.e., inadequate lighting, poor placement of exit gate, and failure to eliminate hiding places, all proprietary functions. *Gillot v. Washington Metropolitan Area Transit Authority*, 507 F. Supp. 454, 1981 U.S. Dist. LEXIS 10646 (1981).

Washington Metropolitan Area Transit Authority is immune from liability for alleged acts of negligence, if particular activity involved is legislative, administrative, or regulatory policy decision, rather than activity implementing policy decision. D.C. Code 1981, § 1-2431(80). *McKethan v. Washington Metro. Area Transit Authority*, 588 A.2d 708, 1991 D.C. App. LEXIS 70 (1991).

Negligent operation of transportation system and implementation of system design are proprietary functions for which Washington Metropolitan Area Transit Authority is not immune. D.C. Code 1981, § 1-2431(80). *McKethan v. Washington Metro. Area Transit Authority*, 588 A.2d 708, 1991 D.C. App. LEXIS 70 (1991).

Washington Metropolitan Area Transit Authority was immune from liability to prospective passengers injured by automobile while waiting at bus stop; Transit Authority's role in

decision not to relocate bus stop after road was widened was discretionary, rather than ministerial function. D.C. Code 1981, § 1-2431(80).

McKethean v. Washington Metro. Area Transit Authority, 588 A.2d 708, 1991 D.C. App. LEXIS 70 (1991).

## § 9-1107.02. Authority of Council to enact acts adopting Compact amendments.

The Council of the District of Columbia shall have authority to enact any act adopting on behalf of the District of Columbia amendments to the Washington Metropolitan Area Transit Regulation Compact, but in no case shall any such amendment become effective until after it has been approved by Congress.

(June 4, 1976, 90 Stat. 675, Pub. L. 94-306, § 4.)

**Prior Codifications.** — 1981 Ed., § 1-2432. 1973 Ed., § 1-1431-1.

## § 9-1107.03. Consent of Council to Compact amendments.

(a) The District of Columbia hereby consents to, adopts, and enacts amendments to Articles I and XVI of Title III of the Washington Metropolitan Area Transit Regulation Compact as set out in § 9-1107.01.

(b) The Mayor of the District of Columbia is authorized and directed to enter into and execute on behalf of the District of Columbia amendments, substantially as set forth in subsection (a) of this section, to Title III of the Washington Metropolitan Area Transit Regulation Compact with the Commonwealth of Virginia and the State of Maryland, which amendments shall become effective immediately upon execution of same.

(June 11, 1976, D.C. Law 1-67, §§ 2, 3, 23 DCR 501, 510.)

**Prior Codifications.** — 1981 Ed., § 1-2433. 1973 Ed., § 1-1431-1a.

**Legislative history of Law 1-67.** — Law 1-67 was introduced in Council and assigned Bill No. 1-125, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on February 24, 1976 and

March 9, 1976, respectively. Signed by the Mayor on April 1, 1976, it was assigned Act No. 1-104 and transmitted to both Houses of Congress for its review.

**References in text.** — The amendments referred to in subsection (a) of this section are to §§ 1 and 76 of the Compact.

## § 9-1107.04. Congressional consent to amendments — Articles I, III, VII, IX, XI, XIV, and XVI of Title III.

(a) The Congress hereby consents to amendments to Articles I, III, VII, IX, XI, XIV, and XVI of Title III of the Washington Metropolitan Area Transit Regulation Compact substantially as set out in § 9-1107.01.

(b) The Mayor of the District of Columbia is authorized and directed to enter into and execute on behalf of the District of Columbia amendments, substantially as set forth in subsection (a) of this section, to Title III of the Washington Metropolitan Area Transit Regulation Compact with the States of Virginia and Maryland.

(July 13, 1972, 86 Stat. 466, Pub. L. 92-349, title III, § 301.)



**Prior Codifications.** — 1981 Ed., § 1-2434. 1973 Ed., § 1-1431a.

**References in text.** — The amendments referred to in subsection (a) of this section are to §§ 1(g), 5(a), 21, 35, 39, 51, 66, and 79 of the Compact.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia

Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-1107.05. Congressional consent to amendments — Articles XII and XVI of Title III.

(a) The Congress hereby consents to amendments to Articles XII and XVI of Title III of the Washington Metropolitan Area Transit Regulation Compact substantially as set out in § 9-1107.01.

(b) The Mayor of the District of Columbia is authorized and directed to enter into and execute on behalf of the District of Columbia amendments, substantially as set forth above, to Title III of the Washington Metropolitan Area Transit Regulation Compact with the States of Virginia and Maryland.

(Oct. 21, 1972, 86 Stat. 1000, Pub. L. 92-517, title I, § 101.)

**Prior Codifications.** — 1981 Ed., § 1-2435. 1973 Ed., § 1-1431b.

**References in text.** — The amendments referred to in subsection (a) of this section are to §§ 56(e) and 82(a) of the Compact.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorgani-

zation Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-1107.06. Congressional consent to amendments — Articles I and XVI of Title III.

(a) The Congress hereby consents to, and adopts and enacts for the District of Columbia, amendments to Articles I and XVI of Title III of the Washington Metropolitan Area Transit Regulation Compact as set out in § 9-1107.01, which amendments have been adopted substantially by the Commonwealth of Virginia and the State of Maryland.

(b) The Mayor of the District of Columbia is authorized and directed to enter into and execute on behalf of the District of Columbia amendments, substantially as set forth in subsection (a) of this section, to Title III of the Washington Metropolitan Area Transit Regulation Compact with the State of Maryland and the Commonwealth of Virginia, which amendments shall become effective immediately upon execution of same.

(June 4, 1976, 90 Stat. 672, Pub. L. 94-306, §§ 1, 2.)



**Prior Codifications.** — 1981 Ed., § 1-2436.  
1973 Ed., § 1-1431c.

**References in text.** — The amendments

referred to in subsection (a) of this section are  
to §§ 1 and 76 of the Compact.

## § 9-1107.07. Mayor directed to execute Compact amendments; appropriations.

The Mayor of the District of Columbia is authorized and directed to enter into and execute an amendment to the Compact substantially as set forth above with the States of Virginia and Maryland and is further authorized and directed to carry out and effectuate the terms and provisions of said Title III, and there are hereby authorized to be appropriated out of District of Columbia funds such amounts as are necessary to carry out the obligations of the District of Columbia in accordance with the terms of the said Title III.

(Nov. 6, 1966, 80 Stat. 1352, Pub. L. 89-774, § 2.)

**Prior Codifications.** — 1981 Ed., § 1-2437.  
1973 Ed., § 1-1432.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-1107.08. Mayor to enter agreements to make certain technical amendments; effective date of technical amendments.

The Mayor of the District of Columbia shall, for the District of Columbia, enter agreements with the Commonwealth of Virginia and the State of Maryland to make technical amendments to Title III of the Washington Metropolitan Area Transit Regulation Compact, so long as the amended version of the Compact then substantially conforms to the amendments in § 2 of the Washington Metropolitan Area Transit Authority Compact Amendment Act of 1984. The technical amendments shall become effective when the Mayor executes the agreements concerning the Compact.

(Sept. 26, 1984, D.C. Law 5-122, § 3, 31 DCR 4049.)

**Prior Codifications.** — 1981 Ed., § 1-2437.1.

**Legislative history of Law 5-122.** — Law 5-122, the "Washington Metropolitan Area Transit Authority Compact Amendment Act of 1984," was introduced in Council and assigned Bill No. 5-360, which was referred to the Committee on Transportation and Environmental

Affairs. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-174 and transmitted to both Houses of Congress for its review.

**References in text.** — The "Washington Metropolitan Area Transit Authority Compact

Amendment Act of 1984," referred to at the end of the first sentence of this section, is D.C. Law 5-122.

### **§ 9-1107.09. Transfer of functions, duties, property, and records of National Capital Transportation Agency to Washington Metropolitan Area Transit Authority.**

(a) To assure uninterrupted progress in the development of the facilities authorized by the National Capital Transportation Act of 1965, the transfer of the functions and duties of the National Capital Transportation Agency (herein referred to as the Agency) to the Washington Metropolitan Area Transit Authority (herein referred to as the Authority) as required by § 1-1408(b) shall take place on September 30, 1967.

(b) Upon the effective date of the transfer of functions and duties authorized by subsection (a) of this section, the President is authorized to transfer to the Authority such real and personal property, studies, reports, records, and other assets and liabilities as are appropriate in order that the Authority may assume the functions and duties of the Agency and, further, the President shall make provision for the transfer to the Authority of the unexpended balance of the appropriations, and of other funds, of the Agency for use by the Authority but such unexpended balances so transferred shall be used only for the purpose for which such appropriations were originally made. Subsequent to said effective date, there is authorized to be appropriated to the Department of Housing and Urban Development, for payment to the Authority, any unappropriated portion of the authorization specified in § 9-1105.02(1). There is also authorized to be appropriated to the District of Columbia out of the General Fund of the District of Columbia, for payment to the Authority, any unappropriated portion of the authorization specified in § 9-1105.02(2). Any such appropriations shall be used only for the purposes for which such authorizations were originally made.

(c) Pending the assumption by the Authority of the functions and duties of the Agency, the Agency is authorized and directed, in the manner herein set forth, fully to cooperate with and assist the Authority, the Northern Virginia Transportation Commission and the Washington Suburban Transit Commission in the development of plans for the extensions, new lines and related facilities required to expand the basic system authorized by the National Capital Transportation Act of 1965 into a regional system, but pending such transfer of functions and duties, nothing in this subchapter shall be construed to impair the performance by the Agency of the functions and duties imposed by the National Capital Transportation Act of 1965.

(d) In order to provide the cooperation and assistance specified in subsection (c) of this section, the Agency is authorized to perform, on a reimbursable basis, planning, engineering and such other services for the Authority, as the Authority may request, or to obtain such services by contract, but all such assistance and services shall be rendered in accordance with policy determinations made by the Authority and shall be advisory only.

(e) Amounts received by the Agency from the Authority as provided in subsection (d) of this section shall be available for expenditure by the Agency in performing services for the Authority.

(Nov. 6, 1966, 80 Stat. 1352, Pub. L. 89-774, § 3.)

**Prior Codifications.** — 1981 Ed., § 1-2438. 1973 Ed., § 1433.

**References in text.** — “The National Capital Transportation Act of 1965,” referred to in subsections (a) and (c) of this section, is the Act of September 8, 1965, 79 Stat. 663, Pub. L. 89-173.

former § 1-1408, referred to near the end of subsection (a) of this section, was repealed by

the Act of December 9, 1969, 83 Stat. 322, Pub. L. 91-143, § 8(a)(1).

**Transfer of Functions.** — Section 1(a)(3) of Reorganization Plan No. 2 of 1968, transferred the functions of the Department of Housing and Urban Development, set forth in subsection (b) of this section, to the Secretary of Transportation.

## § 9-1107.10. Jurisdiction of courts; removal of actions.

The United States district courts shall have original jurisdiction, concurrent with the courts of Maryland and Virginia, of all actions brought by or against the Authority and to enforce subpoenas issued pursuant to the provisions of Title III. Any such action initiated in a state court shall be removable to the appropriate United States district court in the manner provided by § 1446 of Title 28, United States Code.

(Nov. 6, 1966, 80 Stat. 1353, Pub. L. 89-774, § 4.)

**Prior Codifications.** — 1981 Ed., § 1-2439. 1973 Ed., § 1-1434.

**Editor's notes.** — Appropriations authorized: Public Law 104-194, 110 Stat. 2362, the District of Columbia Appropriations Act, 1997, provided for construction projects an increase of \$46,923,000 (including an increase of \$34,000,000 for the highway trust fund, reallocations and rescissions for a net rescission of \$120,496,000 from local funds appropriated under this heading in prior fiscal years and an additional \$133,419,000 in Federal funds), as authorized by §§ 34-2405.01 through 34-2405.08; §§ 34-2413.08, 34-2413.10 and 34-2304; and §§ 10-619 and 47-3404; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That funds for use of each capital

project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 9-107.01, note), for which funds are provided by this appropriation title, shall expire on September 30, 1998, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1998: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

## CASE NOTES

### ANALYSIS

Contracts.

Crimes and offenses.

Federal court jurisdiction generally.

Parties.

**Contracts.**

Actions based upon public authority's contract are governed by law of applicable signa-



tory to Washington Metropolitan Area Transit Authority Compact. D.C. Code 1981, § 1-2431. *Nello L. Teer Co. v. Washington Metro. Area Transit Auth.*, 921 F.2d 300, 1990 U.S. App. LEXIS 21291 (C.A.D.C. 1990), remanded by 995 F.2d 305, 301 U.S. App. D.C. 405, 1993 U.S. App. LEXIS 21393 (1993).

#### **Crimes and offenses.**

Superior Court of the District of Columbia had jurisdiction over criminal charge alleging that employee for Washington Metropolitan Area Transit Authority (WMATA) had solicited a bribe. D.C. Code 1981, §§ 1-2439, 22-712(a)(2). *Colbert v. United States*, 601 A.2d 603, 1992 D.C. App. LEXIS 18 (1992).

#### **Federal court jurisdiction generally.**

Federal district court had no pendent jurisdiction over claim against the District of Columbia brought by district resident for injuries suffered in automobile collision with district police officer, notwithstanding that court's statutory jurisdiction over codefendant, the Washington Metropolitan Area Transit Authority, based on claim of negligently parked bus obstructing officer's view. 18 U.S.C. § 1332(a, d). *Christmas v. Washington Metropolitan Area Transit Authority*, 621 F. Supp. 355, 1985 U.S. Dist. LEXIS 14396 (1985).

Superior Court for the District of Columbia is empowered to hear civil actions in which Washington Metropolitan Area Transit Authority (WMATA) is a party. D.C. Code 1981, § 1-2439. *Colbert v. United States*, 601 A.2d 603, 1992 D.C. App. LEXIS 18 (1992).

Section of Washington Metropolitan Area Transit Authority Compact, which operates to give United States District Courts in Maryland and Virginia jurisdiction over suits against transit authority without regard to diversity of citizenship or to amount in controversy, only eliminates \$10,000 threshold for actions involv-

ing transit authority in United States District Court for District of Columbia. Washington Metropolitan Area Transit Regulation Compact, Art. XVI, § 81, D.C. Code 1973, foll. § 1-1431. *Qasim v. Washington Metropolitan Area Transit Authority*, 455 A.2d 904, 1983 D.C. App. LEXIS 305 (1983), writ of certiorari denied by 461 U.S. 929, 103 S. Ct. 2090, 77 L. Ed. 2d 300, 1983 U.S. LEXIS 4599, 51 U.S.L.W. 3825 (1983).

Grant of jurisdiction of section of Washington Metropolitan Area Transit Authority Compact providing that United States District Court shall have original jurisdiction, concurrent with courts of Maryland and Virginia, of all actions brought by or against the authority, is concurrent and empowers federal courts, along with court of general jurisdiction in District of Columbia, to hear actions involving transit authority. Washington Metropolitan Area Transit Regulation Compact, Art. XVI, § 81, D.C. Code 1973, foll. § 1-1431. *Qasim v. Washington Metropolitan Area Transit Authority*, 455 A.2d 904, 1983 D.C. App. LEXIS 305 (1983), writ of certiorari denied by 461 U.S. 929, 103 S. Ct. 2090, 77 L. Ed. 2d 300, 1983 U.S. LEXIS 4599, 51 U.S.L.W. 3825 (1983).

#### **Parties.**

District of Columbia was indispensable party to district resident's action against municipal transit authority for injuries arising when police car driven by district officer collided with resident allegedly due in part to transit authority's negligent parking of bus which blocked officer's view, requiring dismissal of action where court had no jurisdiction over the District, and resident had adequate remedy in District of Columbia superior court. Fed. Rules Civ. Proc. Rule 19(b), 18 U.S.C. *Christmas v. Washington Metropolitan Area Transit Authority*, 621 F. Supp. 355, 1985 U.S. Dist. LEXIS 14396 (1985).

## **§ 9-1107.11. Amendment of laws and reorganization plans.**

All laws or parts of laws of the United States and of the District of Columbia inconsistent with the provisions of Title III are hereby amended for the purpose of this subchapter to the extent necessary to eliminate such inconsistencies and to carry out the provisions of this subchapter and Title III and all laws or parts of laws and all reorganization plans of the United States are hereby amended and made applicable for the purpose of this subchapter to the extent necessary to carry out the provisions of this subchapter and Title III.

(Nov. 6, 1966, 80 Stat. 1353, Pub. L. 89-774, § 5(a).)

**Prior Codifications.** — 1981 Ed., § 1-2440.

1973 Ed., § 1-1435.

**§ 9-1107.12. Reservation of right to alter, amend or repeal subchapter; submission of reports; scope of Presidential and Congressional inquiry; audits.**

(a) The right to alter, amend or repeal this subchapter is hereby expressly reserved.

(b) The Authority shall submit to Congress and the President copies of all annual and special reports made to the Governors, the Mayor of the District of Columbia and/or the legislatures of the compacting States.

(c) The President and the Congress or any committee thereof shall have the right to require the disclosure and furnishing of such information by the Authority as they may deem appropriate. Further, the President and Congress or any of its committees shall have access to all books, records and papers of the Authority as well as the right of inspection of any facility used, owned, leased, regulated or under the control of said Authority.

(d) In carrying out the audits provided for in § 70(b) of the Compact, the representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Board and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, agents, and custodians.

(Nov. 6, 1966, 80 Stat. 1353, Pub. L. 89-774, § 6.)

**Prior Codifications.** — 1981 Ed., § 1-2441. 1973 Ed., § 1-1436.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

*Subchapter IV-A. Washington Metropolitan Area Transit Authority Fund.*

**§ 9-1108.01. Washington Metropolitan Area Transit Authority Fund established.**

(a)(1) There is established as a nonlapsing fund the Washington Metropolitan Area Transit Authority Fund ("Fund"), which shall be used solely for the purposes set forth in subsection (b) of this section.

(2) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year or at any other time, but



shall be continually available for the uses and purposes set forth in subsection (b) of this section, subject to authorization by Congress.

(3)(A) Except as provided in subparagraph (B) of this paragraph, the Fund shall be funded solely by an annual appropriation of \$50 million ("Required Funding").

(B) If in any fiscal year, the amount appropriated for the Fund ("Anticipated Funding") is less than the Required Funding, a percentage of the sales tax revenue collected annually under Chapter 20 of Title 47 equal to the difference between the Required Funding and the Anticipated Funding ("Deficit") shall be apportioned from the proceeds of such annual sales tax revenues, other than dedicated taxes as defined under § 1-204.90(n)(5), and shall be deposited into the Fund in accordance with subsection (a-1)(2) of this section.

(a-1) On or before October 31 of each fiscal year, the Chief Financial Officer shall certify to the Mayor and the Council that:

(1) The Congress appropriated \$50 million for the Fund in the current fiscal year and the funds are available for obligation and expenditure in the current fiscal year; or

(2) The amount of funds that are available for obligation and expenditure from the Fund and the amount of the Deficit.

(a-2) In each fiscal year that the Chief Financial Officer certifies that there is a Deficit, in accordance with subsection (a-1)(2) of this section, the Chief Financial Officer shall, beginning November 1, commence the deposit of a percentage of sales tax revenues collected each month under Chapter 20 of Title 47, apportioned from the proceeds of such monthly sales tax revenues, other than dedicated taxes as defined under § 1-204.90(n)(5), until the Deficit has been fully funded; provided, that the amount of such monthly sales tax shall be reduced by the interest on the Anticipated Funding earned during the fiscal year. The Chief Financial Officer shall determine the percentage of sales tax revenues necessary to satisfy the Deficit within the fiscal year.

(b)(1) Funds deposited in the Washington Metropolitan Area Transit Authority Fund shall be used to maintain and improve the transportation system of the Washington Metropolitan Area Transit Authority and, for such purpose, shall be available to comply with any federal grant matching funds requirement, a decision by the District to match federal funds received, or to provide revenue to the Washington Metropolitan Area Transit Authority.

(2) The amount of annual expenditures from the Fund shall not exceed the contributions by Maryland or Virginia. For the purpose of this subsection, the contributions of Maryland or Virginia shall not include any payments made pursuant to the Washington Metropolitan Area Transit Authority subsidy allocation formulas.

(June 16, 2006, D.C. Law 16-132, § 2, 53 DCR 4727; Mar. 25, 2009, D.C. Law 17-360, § 3(a), 56 DCR 1200; Mar. 3, 2010, D.C. Law 18-111, § 6071(a), 57 DCR 181.)

**Section references.** — This section is referenced in § 1-325.155 and § 9-1108.02.

**Effect of amendments.** — D.C. Law 17-360, in subsec. (a), substituted "5.7% of general

sales tax revenue (net dedicated taxes)" for "0.5% of sales tax revenue".

D.C. Law 18-111 rewrote subsec. (a); and added subsec. (a-1) and (a-2).



**Emergency legislation.** — For temporary (90 day) amendment of section, see §§ 6071(a), 7032 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see §§ 6071(a), 7032 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 16-132.** — Law 16-132, the “Washington Metropolitan Area Transit Authority Fund Act of 2006”, was introduced in Council and assigned Bill No. 16-569 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 7, 2006, and April 4, 2006, respectively. Signed by the Mayor on April 21, 2006, it was assigned Act No. 16-350 and transmitted to both Houses of Congress for its review. D.C. Law 16-132 became effective on June 16, 2006.

**Legislative history of Law 17-360.** — Law 17-360, the “Limitation on Borrowing and Establishment of the Operating Cash Reserve Act of 2008”, was introduced in Council and assigned Bill No. 17-914 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 16, 2009, it was assigned Act No. 17-695 and trans-

mitted to both Houses of Congress for its review. D.C. Law 17-360 became effective on March 25, 2009.

**Legislative history of Law 18-111.** — Law 18-111, the “Fiscal Year 2010 Budget Support Act of 2009”, was introduced in Council and assigned Bill No. 18-203, which was referred to the Committee on the Whole. The bill was adopted on first and second readings on May 12, 2009, and September 22, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-255 and transmitted to both Houses of Congress for its review. D.C. Law 18-111 became effective on March 3, 2010.

**Short title.** — Short title: Section 6070 of D.C. Law 18-111 provided that subtitle H of title VI of the act may be cited as the “Washington Metropolitan Area Transit Authority Fund Amendment Act of 2009”.

**Editor’s notes.** — Section 3(3) of Law 16-132 required that the fiscal effect of Law 16-132 be included in an approved budget and financial plan in order for Law 16-132 to apply as law. The Budget Director of the Council of the District of Columbia has determined, as of November 2, 2007, that the fiscal effect of Law 16-132 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 16-98, are not in effect.

Section 3(b) of D.C. Law 17-360 repealed section 3(3) of D.C. Law 16-132 and restored this section.

## § 9-1108.02. Applicability.

Section 9-1108.01(b) shall apply upon:

(1) Enactment by Congress of legislation providing federal grants to the Washington Metropolitan Area Transit Authority for the purpose of maintaining and improving the transportation system of the Washington Metropolitan Area Transit Authority;

(2) Passage of legislation by the Maryland General Assembly and the Virginia General Assembly:

(A) If each jurisdiction dedicates an amount of revenue at least equal to the contribution of the District to the Washington Metropolitan Area Transit Authority as provided under this subchapter; or

(B) Implementing any act of Congress providing federal grants to the Washington Metropolitan Area Transit Authority for the purpose of maintaining and improving the transportation system of the Washington Metropolitan Area Transit Authority; and

(3) Repealed;

(4) Inclusion of the fiscal effect of this subchapter in an approved budget and financial plan.

(June 16, 2006, D.C. Law 16-132, § 3, 53 DCR 4727; Mar. 25, 2009, D.C. Law 17-360, § 3(b), 56 DCR 1200; Mar. 3, 2010, D.C. Law 18-111, §§ 6071(b), 7032, 57 DCR 181.)

**Effect of amendments.** — D.C. Law 17-360 repealed par. (3) which had read as follows: “(3) Inclusion of the fiscal effect of this subchapter in an approved budget and financial plan.”

D.C. Law 18-111, in the introductory text, substituted “Section 9-1108.01(b)” for “Section 9-1108.01”; and added par. (4).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 6071(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 6071(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 16-132.** — For Law 16-132, see notes following § 9-1108.01.

**Legislative history of Law 17-360.** — For Law 17-360, see notes following § 9-1108.01.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 9-1108.01.

**Editor’s notes.** — Section 3(3) of Law 16-132 required that the fiscal effect of Law 16-132 be included in an approved budget and financial plan in order for Law 16-132 to apply as law. The Budget Director of the Council of the District of Columbia has determined, as of November 2, 2007, that the fiscal effect of Law 16-132 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 16-98, are not in effect.

Section 3(b) of D.C. Law 17-360 repealed section 3(3) of D.C. Law 16-132 and restored this section.

### *Subchapter IV-B. Appointment of Board of Directors of the Metropolitan Area Transit Authority.*

## **§ 9-1108.11. Requirements for appointment and service on the Board of Directors of the Washington Metropolitan Area Transit Authority.**

(a) A person who is appointed to serve on the Board of Directors of the Washington Metropolitan Area Transit Authority (“Board”) shall comply with the following requirements:

(1) The person shall not have been an employee of the Washington Metropolitan Area Transit Authority (“WMATA”) within one year of appointment to the Board.

(2) The person shall have experience in at least one of the following areas:

- (A) Transit planning;
- (B) Transportation planning;
- (C) Land use planning;
- (D) Transit or transportation management or other public-sector management;
- (E) Engineering;
- (F) Finance;
- (G) Public Safety;
- (H) Homeland security;
- (I) Human resources;
- (J) Law; or
- (K) Knowledge of the WMATA region’s transportation issues.

(3) The person shall be a patron of services provided by the WMATA.

(4) The person shall serve a 4-year term with a maximum of 2 consecutive terms.

(5) Persons appointed to the Board shall file an annual report with the Council on or before April 30 of each calendar year. The report shall include:

- (A) The dates of attendance at WMATA Board meetings;

- (B) The reason for not attending a meeting;
- (C) Dates and attendance at other WMATA-related public events; and
- (D) An affirmation of the member's use of the bus, rail, or paratransit services of the WMATA since submission of the previous report.

(b)(1) For the purpose of transitioning to a composition of staggered terms, initial appointments to the Board shall be made on July 1, 2013, as follows:

- (A) A principal member shall be appointed for a term of 4 years;
- (B) An alternate member shall be appointed for a term of 3 years;
- (C) A principal member shall be appointed for a term of 2 years; and
- (D) An alternate member shall be appointed for a term of one year.

(2) Thereafter, members shall be appointed for 4-year terms.

(3) Appointments, including appointments for the completion of an unexpired term, for fewer than 3 years shall not count for the purposes of term limits.

(c) To prevent extended vacancies on the Board, each person appointed may continue to serve until replaced or reappointed, for a period not to exceed 12 months.

(d) Each person appointed to the Board shall serve at the pleasure of the Council and may be removed for any reason, including failure to adhere to the requirements of this subchapter.

(Apr. 27, 2013, D.C. Law 19-286, § 2, 60 DCR 2319.)

**Legislative history of Law 19-286.** — Law 19-286, the “Washington Metropolitan Area Transit Authority Board of Directors Act of 2012,” was introduced in Council and assigned Bill No. 19-744. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 29, 2013, it was assigned Act No. 19-653 and transmitted to Congress for its review. D.C. Law 19-286 became effective on April 27, 2013.

## *Subchapter V. Washington Metropolitan Area Transit Authority Safety Regulation.*

### **§ 9-1109.01. Definitions.**

For the purposes of this subchapter, the term:

(1) “Act” means the Federal Transit Act, approved July 9, 1964 (78 Stat. 302; 49 U.S.C. 5301 et seq.).

(2) “Agreement” means the agreement executed by the Mayor, on behalf of the District of Columbia, with the Commonwealth of Virginia and the State of Maryland for the creation and operation of a joint state oversight agency.

(3) “APTA Manual” means the American Public Transit Association Manual for the Development of Rail Transit System Safety Program Plans as that is referenced in 49 C.F.R. § 659.5.

(4) “Federal Transit Administration” means the Federal Transit Administration of the U.S. Department of Transportation.

(5) “Joint state oversight agency” means the agency for the regulation of the safety of WMATA’s rail fixed guideway system that the District of Columbia, Commonwealth of Virginia, and State of Maryland are required to



create and operate under section 28 of the Act, as a condition for the continuation of federal grant-in-aid assistance under that Act.

(6) "Plan" means the system safety program plan referenced in 49 C.F.R. § 659.5, including the security portion of that plan.

(7) "Public Works" means the District of Columbia Department of Public Works.

(8) "Rail fixed guideway system" means a rail mass transportation system as defined in 49 C.F.R. § 659.5.

(9) "Standard" means the system safety program standard referenced in 49 C.F.R. § 659.5, including the security portion of that standard.

(10) "Unacceptable hazardous condition" means the condition referenced in 49 C.F.R. § 659.5.

(11) "WMATA" means the Washington Metropolitan Area Transit Authority created pursuant to the Washington Metropolitan Area Transit Regulation Compact, approved November 6, 1966 (80 Stat. 1324; § 9-1107.01).

(Sept. 23, 1997, D.C. Law 12-20, § 2, 44 DCR 4023; Apr. 20, 1999, D.C. Law 12-264, § 13, 46 DCR 2118.)

**Prior Codifications.** — 1981 Ed., § 1-2445.1.

**Temporary Addition of Section.** — For temporary (225 day) additions, see §§ 2 to 8 of Washington Metropolitan Area Transit Authority Safety Regulation Temporary Act of 1996 (D.C. Law 11-261, April 25, 1997, law notification 44 DCR 2859).

**Emergency legislation.** — For temporary creation of a joint entity among the District of Columbia, Commonwealth of Virginia, and State of Maryland to regulate the safety and security of the rail fixed guideway system operated by the Washington Metropolitan Area Transit Authority, see §§ 2-8 of the Washington Metropolitan Area Transit Authority Safety Regulation Legislative Review Emergency Act of 1997 (D.C. Act 12-58, March 31, 1997, 44 DCR 2230).

Section 10 of D.C. Act 12-58 provided for the application of the act.

**Legislative history of Law 12-20.** — Law 12-20, the "Washington Metropolitan Area Transit Authority Safety Regulation Act of 1997," was introduced in Council and assigned Bill No. 12-30, which was referred to the Com-

mittee on Local, Regional, and Federal Affairs. The Bill was adopted on first and second readings on May 6, 1997, and June 3, 1997, respectively. Signed by the Mayor on June 18, 1997, it was assigned Act No. 12-97 and transmitted to both Houses of Congress for its review. D.C. Law 12-20 became effective on September 23, 1997.

**Legislative history of Law 12-264.** — Law 12-264, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

**References in text.** — Section 28 of the Federal Transit Act, referred to in paragraph (5) of this section, was formerly codified at 49 U.S.C. Appx. § 1624 prior to repeal by Act July 5, 1994, P.L. 103-272, § 7(b), 108 Stat. 1379. For the present similar provision, see 49 U.S.C. § 5330.

## § 9-1109.02. Authorization for interstate agreement.

The Mayor is hereby authorized to execute, on behalf of the District of Columbia, an agreement with the Commonwealth of Virginia and the State of Maryland for the creation and operation of a joint state oversight agency. Any such agency shall be an instrumentality of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland. Any agreement executed by the Mayor to establish the agency shall, at a minimum, contain provisions that substantially satisfy the requirements set forth in § 9-1109.04.

(Sept. 23, 1997, D.C. Law 12-20, § 3, 44 DCR 4023.)

**Section references.** — This section is referenced in § 9-1109.04, § 9-1109.05, and § 9-1109.07.

**Prior Codifications.** — 1981 Ed., § 1-2445.2.

**Legislative history of Law 12-20.** — For legislative history of D.C. Law 12-20, see Historical and Statutory Notes following § 9-1109.01.

### § 9-1109.03. Appointment of District representatives.

The Mayor shall appoint all members to the joint state oversight agency who represent the District of Columbia. Those members shall serve at the pleasure of the Mayor.

(Sept. 23, 1997, D.C. Law 12-20, § 4, 44 DCR 4023.)

**Prior Codifications.** — 1981 Ed., § 1-2445.3.

legislative history of D.C. Law 12-20, see Historical and Statutory Notes following § 9-1109.01.

**Legislative history of Law 12-20.** — For

### § 9-1109.04. Requirements for agreement.

Any agreement that the Mayor executes pursuant to § 9-1109.02 shall contain provisions that substantially satisfy all of the following requirements:

(1) The joint state oversight agency shall consist of 6 voting members. Each party to the agreement shall appoint 2 members.

(2) Three members of the joint state oversight agency, 1 from each party to the agreement, shall constitute a quorum for the purpose of approving action by the agency.

(3) All actions of the joint state oversight agency shall be approved by majority vote of the members. Such vote shall consist of more than ½ of the total number of members in attendance and shall include at least 1 affirmative vote by a representative of each party.

(4) A chairperson shall be elected, by majority vote, from among the members of the joint state oversight agency. The term of the chairperson shall be specified in the agreement. The chairperson shall have such responsibilities, consistent with the requirements of this section, as the agreement provides.

(5) The joint state oversight agency shall be responsible for:

(A) Adopting a standard that satisfies the criteria in the APTA Manual;

(B) Requiring WMATA to develop and implement a plan that satisfies the standard in subparagraph (A) of this paragraph;

(C) Adopting a standard that requires WMATA to address the personal security of passengers and employees in its rail fixed guideway system;

(D) Requiring WMATA to develop and implement a plan that satisfies the standard in subparagraph (C) of this paragraph;

(E) Monitoring the implementation of the plans in subparagraphs (B) and (D) of this paragraph;

(F) Requiring WMATA to conduct internal safety audits for its rail fixed guideway system and to report the results of these audits;

(G) Requiring WMATA to report accidents and unacceptable hazardous conditions in its rail fixed guideway system;

(H) Establishing minimum procedures for investigating accidents and unacceptable hazardous conditions in WMATA's rail fixed guideway system;

(I) Investigating, or requiring WMATA to investigate, any such accidents or conditions;

(J) Requiring WMATA to develop and implement corrective action plans that address accidents and unacceptable hazardous conditions in its rail fixed guideway system;

(K) Conducting on-site safety reviews of WMATA's rail fixed guideway system; and

(L) Making reports as required under section 28 of the Act and under 49 C.F.R. § 659.

(6) The joint state oversight agency shall have authority to contract with a consultant as it deems necessary to carry out its responsibilities. All actual costs associated with such a contract shall be shared equally, on a  $\frac{1}{3}$  basis, by each party to the agreement.

(7) Any party to the agreement shall be entitled unilaterally to withdraw from it on no more than 60 days written notice to the other parties. Any party that withdraws shall be responsible for its pro rata share of any actual costs incurred for a consultant up to the effective date of termination, in accordance with paragraph (6) of this section.

(Sept. 23, 1997, D.C. Law 12-20, § 5, 44 DCR 4023.)

**Section references.** — This section is referenced in § 9-1109.02, § 9-1109.05, and § 9-1109.07.

**Prior Codifications.** — 1981 Ed., § 1-2445.4.

**Legislative history of Law 12-20.** — For legislative history of D.C. Law 12-20, see Historical and Statutory Notes following § 9-1109.01.

**References in text.** — Section 28 of the Federal Transit Act, referred to in paragraph (5)(L) of this section, was formerly codified at 49 U.S.C. Appx. § 1624 prior to repeal by Act July 5, 1994, P.L. 103-272, § 7(b), 108 Stat. 1379. For the present similar provision, see 49 U.S.C. § 5330.

## § 9-1109.05. Amendments to agreement.

The Mayor may execute, on behalf of the District of Columbia, amendments to the agreement authorized by § 9-1109.02 so long as the agreement, as amended, continues to contain provisions that substantially satisfy the requirements in § 9-1109.04.

(Sept. 23, 1997, D.C. Law 12-20, § 6, 44 DCR 4023.)

**Prior Codifications.** — 1981 Ed., § 1-2445.5.

**Legislative history of Law 12-20.** — For

legislative history of D.C. Law 12-20, see Historical and Statutory Notes following § 9-1109.01.

## § 9-1109.06. Procurement law inapplicable.

Chapter 3 of Title 2 shall not apply to contracts of the joint state oversight agency.



(Sept. 23, 1997, D.C. Law 12-20, § 7, 44 DCR 4023.)

**Prior Codifications.** — 1981 Ed., § 1-2445.6. legislative history of D.C. Law 12-20, see Historical and Statutory Notes following § 9-1109.01.  
**Legislative history of Law 12-20.** — For

## § 9-1109.07. Authorization for a District program.

(a) If the Mayor at any time determines that the agreement authorized by § 9-1109.02 is not in the best interest of the District, the Mayor may terminate the District's participation in the agreement and its duty to perform the responsibilities set out in § 9-1109.04(5) within the District.

(b) If the Mayor assumes the responsibilities set out in § 9-1109.04(5) pursuant to a determination made under subsection (a) of this section, the Mayor may promulgate any necessary rules.

(Sept. 23, 1997, D.C. Law 12-20, § 8, 44 DCR 4023.)

**Cross references.** — Acquisition of mass transit bus systems, repayment of advances, deferral, see § 9-1113.05. **Legislative history of Law 12-20.** — For legislative history of D.C. Law 12-20, see Historical and Statutory Notes following § 9-1109.01.

**Prior Codifications.** — 1981 Ed., § 1-2445.7.

## *Subchapter VI. Adopted Regional System.*

### § 9-1111.01. Definitions.

For the purposes of this subchapter:

(1) The term “adopted regional system” means that system described in the Transit Authority's report entitled “Adopted Regional Rapid Rail Transit Plan and Program, March 1, 1968 (revised February 7, 1969),” as that system may hereafter be altered, revised, or amended in accordance with the Compact.

(2) The term “Compact” means the Washington Metropolitan Area Transit Authority Compact (80 Stat. 1324, Public Law 89-774).

(3) The term “Transit Authority” means the Washington Metropolitan Area Transit Authority established under Article III of the Compact.

(4) The term “Agreement” means the Initial Bond Repayment Participation Agreement executed by the Transit Authority and the United States Department of Transportation on September 18, 1979, and amendments thereto, including the Supplemental Agreement described in § 302 of the Initial Bond Repayment Participation Agreement.

(5) The term “local participating governments” means those governments which comprise the Washington Metropolitan Transit Zone, as defined by paragraph 3 of Article III of Title III of the Washington Metropolitan Area Transit Authority Compact.

(Dec. 9, 1969, 83 Stat. 320, Pub. L. 91-143, § 2; Jan. 3, 1980, 93 Stat. 1323, Pub. L. 96-184, § 3(a).)

**Cross references.** — Blind and physically disabled persons, equal access to public conveyances and accommodations, see § 7-1002.

Persons displaced by programs of Washington Metropolitan Area Transit Authority, eligibility for relocation payments and assistance, see § 6-333.01.

**Section references.** — This section is referenced in § 9-1105.02 and § 9-1111.15.

**Prior Codifications.** — 1981 Ed., § 1-2451. 1973 Ed., § 1-1441.

**Editor's notes.** — Appropriations authorized: Public Law 104-194, 110 Stat. 2362, the District of Columbia Appropriations Act, 1997, provided for construction projects an increase of \$46,923,000 (including an increase of \$34,000,000 for the highway trust fund, reallocations and rescissions for a net rescission of \$120,496,000 from local funds appropriated under this heading in prior fiscal years and an additional \$133,419,000 in Federal funds), as authorized by §§ 34-2405.01 through 34-2405.08; §§ 34-2413.08, 34-2413.10 and 34-2304; and §§ 10-619 and 47-3404; including acquisition of sites, preparation of plans and

specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 9-107.01, note), for which funds are provided by this appropriation title, shall expire on September 30, 1998, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1998: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

## § 9-1111.02. Federal contributions.

(a) To provide the federal share of the cost of the adopted regional system, which system supersedes that heretofore authorized by the Congress in subchapter III of this chapter, the Secretary of Transportation is authorized to make annual contributions to the Transit Authority in amounts sufficient to finance in part the cost of the adopted regional system; except that the aggregate amount of federal contributions for the adopted regional system, including the \$100,000,000 authorized to be appropriated by § 9-1105.02(1), shall not exceed the lower amount of \$1,147,044,000 or two thirds of the net project cost of the adopted regional system.

(b) Federal contributions for the adopted regional system shall be subject to the following limitations and conditions:

(1) The work for which contributions are authorized shall be subject to the provisions of the Compact and shall be carried out substantially in accordance with the plans and schedules for the adopted regional system; and

(2) The aggregate amount of such federal contributions on or prior to the last day of any given fiscal year shall be matched by the local participating governments by payment of the local share of capital contributions required for the period ending with the last day of such year in a total amount not less than 50 per centum of the amount of such federal contributions.

(c) There is authorized to be appropriated to the Secretary of Transportation, without fiscal year limitation, an amount not to exceed \$1,047,044,000 to carry out the purposes of this section. The appropriations authorized by this subsection shall be in addition to the appropriations authorized by § 9-1105.02(1).

(Dec. 5, 1969, 83 Stat. 320, Pub. L. 91-143, § 3.)



**Section references.** — This section is referenced in § 9-1111.10 and § 9-1111.11.

**Prior Codifications.** — 1981 Ed., § 1-2452. 1973 Ed., § 1-1442.

**Editor's notes.** — Appropriations authorized: Public Law 104-194, 110 Stat. 2362, the District of Columbia Appropriations Act, 1997, provided for construction projects an increase of \$46,923,000 (including an increase of \$34,000,000 for the highway trust fund, reallocations and rescissions for a net rescission of \$120,496,000 from local funds appropriated under this heading in prior fiscal years and an additional \$133,419,000 in Federal funds), as authorized by §§ 34-2405.01 through 34-2405.08; §§ 34-2413.08, 34-2413.10 and 34-2304; and §§ 10-619 and 47-3404; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended:

Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 9-107.01, note), for which funds are provided by this appropriation title, shall expire on September 30, 1998, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1998: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

### § 9-1111.03. District of Columbia contributions.

(a) To provide the District of Columbia share of the cost of the adopted regional system, the Mayor of the District of Columbia is authorized to contract with the Transit Authority to make annual capital contributions. To carry out the purposes of this section there is authorized to be appropriated out of the General Fund of the District of Columbia, an amount, without fiscal year limitation, not to exceed such sums as may be necessary.

(b) The appropriations authorized by subsection (a) of this section shall be in addition to the appropriations authorized on behalf of the District of Columbia by § 9-1105.02(2).

(c) The Mayor of the District of Columbia is further authorized to contract with the Transit Authority and to pay in accordance with the terms thereof for the service to be provided to the District of Columbia by the adopted regional system.

(Dec. 9, 1969, 83 Stat. 321, Pub. L. 91-143, § 4; July 13, 1972, 86 Stat. 466, Pub. L. 92-349, title II, § 201(a); Aug. 14, 1979, 93 Stat. 388, Pub. L. 96-57.)

**Section references.** — This section is referenced in § 9-1111.15.

**Prior Codifications.** — 1981 Ed., § 1-2454. 1973 Ed., § 1-1443.

**Editor's notes.** — Appropriations authorized: Public Law 104-194, 110 Stat. 2362, the District of Columbia Appropriations Act, 1997, provided for construction projects an increase of \$46,923,000 (including an increase of \$34,000,000 for the highway trust fund, reallocations and rescissions for a net rescission of \$120,496,000 from local funds appropriated under this heading in prior fiscal years and an additional \$133,419,000 in Federal funds), as authorized by §§ 34-2405.01 through 34-2405.08; §§ 34-2413.08, 34-2413.10 and 34-

2304; and §§ 10-619 and 47-3404; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, ex-



cept those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 9-107.01, note), for which funds are provided by this appropriation title, shall expire on September

30, 1998, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1998: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

## § 9-1111.04. Approval for construction required.

(a) No portion of the adopted regional system shall be constructed within the United States Capitol grounds except upon approval of the Commission for Extension of the United States Capitol.

(b) Construction of the adopted regional system in, on, under, or over public space in the District of Columbia under the jurisdiction of the Mayor of the District of Columbia shall, in the interest of public convenience and safety, be performed in accordance with schedules agreed upon between the Transit Authority and the Mayor, to the end that such construction work will be coordinated with other construction work in such public space; and the Mayor shall so exercise his jurisdiction and control over such public space as to facilitate the Transit Authority's use and occupation thereof for construction of the adopted regional system.

(Dec. 9, 1969, 83 Stat. 322, Pub. L. 91-143, § 5.)

**Prior Codifications.** — 1981 Ed., § 1-2456. 1973 Ed., § 1-1444.

**Emergency legislation.** — For temporary (90 day) Metro Matters funding requirement provisions, see §§ 7012, 7013 of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) Metro Matters funding requirement provisions, see §§ 7012, 7013 of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 9-111.01a.

**Short title.** — Short title of subtitle B of Law 15-205: Section 7011 of D.C. Law 15-205 provided that subtitle B of the act may be cited as the Metro Matters Funding Requirements Act of 2004.

**Editor's notes.** — Sections 7012 and 7013 of D.C. Law 15-205 provided:

"Sec. 7012. The Council authorizes the Mayor to conclude a funding agreement with the Washington Metropolitan Area Transit Authority ('WMATA') by January 1, 2005, for the purposes of funding capital projects identified in Metro Matters, which is a public outreach campaign launched October 23, 2003, to raise awareness about Metro's financial crisis and urgent need for \$1.5 billion in capital funding.

"Sec. 7012. By October 1, 2004, WMATA shall have no fewer than 78 rail cars assigned to the Branch Avenue portion of the Green line during morning and afternoon peak periods."

Appropriations authorized: Public Law 104-194, 110 Stat. 2362, the District of Columbia Appropriations Act, 1997, provided for construction projects an increase of \$46,923,000 (including an increase of \$34,000,000 for the highway trust fund, reallocations and rescissions for a net rescission of \$120,496,000 from local funds appropriated under this heading in prior fiscal years and an additional \$133,419,000 in Federal funds), as authorized by §§ 34-2405.01 through 34-2405.08; §§ 34-2413.08, 34-2413.10 and 34-2304; and §§ 10-619 and 47-3404; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 9-107.01, note), for which funds are provided by this appropriation title, shall expire on September 30, 1998, except authoriza-

tions for projects as to which funds have been obligated in whole or in part prior to September 30, 1998: Provided further, That upon expira-

tion of any such project authorization the funds provided herein for the project shall lapse.

## § 9-1111.05. Disposal of excess revenues.

To the extent that revenues or other receipts derived from or in connection with the ownership or operation of the adopted regional system (other than service payments under transit service agreements executed between the Transit Authority and local political subdivisions, the proceeds of bonds or other evidences of indebtedness issued by the Transit Authority, and capital contributions received by the Transit Authority) are excess to the amounts necessary to make all payments, including debt service, operating and maintenance expenses, and deposits in reserves required or permitted by the terms of any contract of the Transit Authority with or for the benefit of holders of its bonds, notes, or other evidences of indebtedness issued for any purpose relating to the adopted regional system, other than extensions thereof, two thirds of such excess revenues shall, at the end of each fiscal year, beginning with the fiscal year in which the adopted regional system (exclusive of extensions) is first put into substantially full revenue service, be paid into the Treasury of the United States as miscellaneous receipts.

(Dec. 9, 1969, 83 Stat. 322, Pub. L. 91-143, § 6.)

**Prior Codifications.** — 1981 Ed., § 1-2457. 1973 Ed., § 1-1445.

**Emergency legislation.** — For temporary (90 day) Anacostia Corridor Demonstration Project Funding provisions, see § 7002 of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) Anacostia Corridor Demonstration Project Funding provisions, see § 7002 of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 9-111.01a.

**Short title.** — Short title of subtitle A of Law 15-205: Section 7001 of D.C. Law 15-205 provided that subtitle A of the act may be cited as the Anacostia Corridor Demonstration Project Funding Act of 2004.

**Editor's notes.** — Section 7002 of D.C. Law 15-205 provided: "The Council directs the Washington Metropolitan Area Transit Authority ('WMATA') to deposit into a separate account for the funding of the Anacostia Corridor Demonstration Project all presently undedicated funds from the following District accounts:

"(1) District of Columbia Statement of Accounts with WMATA Schedule A: Principal and Interest Statement; and

"(2) WMATA/District of Columbia Local Funding Agreement Escrow Account."

Appropriations authorized: Public Law 104-194, 110 Stat. 2362, the District of Columbia Appropriations Act, 1997, provided for construction projects an increase of \$46,923,000 (including an increase of \$34,000,000 for the highway trust fund, reallocations and rescissions for a net rescission of \$120,496,000 from local funds appropriated under this heading in prior fiscal years and an additional \$133,419,000 in Federal funds), as authorized by §§ 34-2405.01 through 34-2405.08; §§ 34-2413.08, 34-2413.10 and 34-2304; and §§ 10-619 and 47-3404; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 9-107.01, note), for which funds are provided by this appropriation title, shall ex-



pire on September 30, 1998, except authorizations for projects as to which funds have been obligated in whole or in part prior to September

30, 1998: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

### § 9-1111.06. Guarantee of obligations.

(a)(1) The Secretary of Transportation is authorized to guarantee, and to enter into commitments to guarantee, upon such terms and conditions as he may prescribe, payment of principal of and interest on bonds and other evidences of indebtedness (including short-term notes) issued with the approval of the Secretary of the Treasury by the Transit Authority under the Compact. No such guarantee or commitment to guarantee shall be made unless the Secretary of Transportation determines and certifies that:

(A) The obligation to be guaranteed represents an acceptable financial risk to the United States and the prospective revenues of the Transit Authority furnish reasonable assurance that timely payments of interest on such obligation will be made;

(B) The Transit Authority has entered into an agreement with the Secretary of Transportation providing for reasonable and prudent action by the Transit Authority respecting its financial condition if at any time the Secretary, in his discretion, determines that such action would be necessary to protect the interest of the United States;

(C) Unless the obligation is a short-term note (as determined by the Secretary), it will be sold through a process of competitive bidding as prescribed by the Secretary of Transportation; and

(D) The rate of interest payable with respect to such obligation is reasonable in light of prevailing market yields.

(2) Notwithstanding subparagraph (C) of paragraph (1) of this subsection, the Secretary of Transportation may guarantee an obligation under this section sold through a process of negotiation if he makes a determination that prevailing market conditions would result in a higher net interest cost or would otherwise increase the cost of issuing the obligation if the obligation was sold through the competitive bidding process. The Secretary's determination shall be in writing and shall contain a detailed explanation of the reasons therefor.

(b) Any guarantee of obligations made by the Secretary of Transportation under this section shall be conclusive evidence of the eligibility of the obligations for such guarantee, and the validity of any guarantee so made shall be incontestable, except for fraud or material misrepresentation, in the hands of a holder of the guaranteed obligation.

(c) The aggregate principal amount of obligations which may be guaranteed under this section shall not exceed \$1,200,000,000; except that:

(1) No obligation may be guaranteed under this section if, taking into account the principal amount of that obligation, the aggregate amount of principal of outstanding obligations guaranteed under this section exceeds \$900,000,000 unless the local participating governments:

(A) Make, in accordance with agreements entered into with the Transit Authority, capital contributions to the Transit Authority for the adopted



regional system in a total amount not less than 50 per centum of the amount by which the principal of such obligation causes such aggregate amount of principal to exceed \$900,000,000; or

(B) Have entered into enforceable commitments with the Transit Authority to make such contributions by the end of the fiscal year in which such obligation is issued; and

(2) Obligations eligible for guarantees under this section which are issued solely for the purpose of refunding existing obligations previously guaranteed under this section may be guaranteed without regard to the \$1,200,000,000 limitation.

(d) The interest on any obligation of the Transit Authority guaranteed by the Secretary under the provisions of this section shall be included in gross income for the purposes of Chapter 1 of the Internal Revenue Code of 1954.

(Dec. 9, 1969, Pub. L. 91-143, § 9; July 13, 1972, 86 Stat. 464, Pub. L. 92-349, title I, § 101; Jan. 3, 1980, 93 Stat. 1323, Pub. L. 96-184, § 3(b); Apr. 12, 2000, D.C. Law 13-91, § 129, 47 DCR 520.)

**Section references.** — This section is referenced in § 9-1111.08, § 9-1111.09, and § 9-1111.12.

**Prior Codifications.** — 1981 Ed., § 1-2458. 1973 Ed., § 1-1446.

**Effect of amendments.** — D.C. Law 13-91, in subpar. (a)(1)(A), deleted “(including payments under § 1-2459)” preceding “furnish reasonable assurance”.

**Legislative history of Law 13-91.** — Law

13-91, the “Technical Amendments Act of 1999,” was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

## § 9-1111.07. Periodic payments to Authority. [Repealed].

Repealed.

(Dec. 9, 1969, Pub. L. 91-143, § 10; July 13, 1972, 86 Stat. 465, Pub. L. 92-349, title I, § 101; Jan. 3, 1980, 93 Stat. 1323, Pub. L. 96-184, § 3(c).)

**Prior Codifications.** — 1981 Ed., § 1-2459. 1973 Ed., § 1-1447.

## § 9-1111.08. Authorization of appropriations.

(a) There are authorized to be appropriated to the Secretary of Transportation such amounts as may be necessary to enable him to discharge his responsibilities under guarantees issued by him under § 9-1111.06 and to make the payments to the Transit Authority in accordance with § 9-1111.12. Amounts appropriated under this section shall be available without fiscal year limitation.

(b) If at any time the moneys available to the Secretary of Transportation are insufficient to enable him to discharge his responsibilities under guarantees issued by him under § 9-1111.06 or to make payments to the Transit Authority in accordance with § 9-1111.12, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be

prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary of Transportation from appropriations available under subsection (a) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(Dec. 9, 1969, Pub. L. 91-143, § 11; July 13, 1972, 86 Stat. 465, Pub. L. 92-349, title I, § 101; Jan. 3, 1980, 93 Stat. 1323, Pub. L. 96-184, § 3(d).)

**Prior Codifications.** — 1981 Ed., § 1-2460. 1973 Ed., § 1-1448.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of §§ 7062 and 7063 of D.C. Law 15-205, see § 2 of Metro Bus Funding Requirement Temporary Amendment Act of 2006 (D.C. Law 16-196, March 2, 2007, law notification 54 DCR 2494).

**Emergency legislation.** — For temporary (90 day) Metrorail and Metro Bus provisions, see §§ 7022 to 7062 of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) amendment of D.C. Law 15-205, §§ 7062, 7063, see § 2 of Metro Bus Funding Requirement Emergency Amendment Act of 2006 (D.C. Act 16-448, July 21, 2006, 53 DCR 6489).

For temporary (90 day) amendment of D.C. Law 15-205, §§ 7062, 7063, see § 2 of Metro Bus Funding Requirement Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-519, October 27, 2006, 53 DCR 9113).

For temporary (90 day) amendment of D.C. Law 15-205, §§ 7062 and 7063, see § 2 of Metro Bus Funding Requirements Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-4, January 16, 2007, 54 DCR 1445).

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 9-111.01a.

**Short title.** — Short title of subtitle C of Law 15-205: Section 7021 of D.C. Law 15-205 provided that subtitle C of the act may be cited as the Metrorail Late-Night Funding Requirement Act of 2004.

Short title of subtitle D of Law 15-205: Section 7031 of D.C. Law 15-205 provided that

subtitle D of the act may be cited as the Downtown Circulator Bus Service Funding Act of 2004.

Short title of subtitle E of Law 15-205: Section 7041 of D.C. Law 15-205 provided that subtitle E of the act may be cited as the Cardozo Pre-Apprenticeship Program Act of 2004.

Short title of subtitle F of Law 15-205: Section 7051 of D.C. Law 15-205 provided that subtitle F of the act may be cited as the Tourists Take Metro to DC Neighborhoods Act of 2004.

Short title of subtitle G of Law 15-205: Section 7061 of D.C. Law 15-205 provided that subtitle G of the act may be cited as the Metro Bus Funding Requirement Act of 2004.

**References in text.** — “The Second Liberty Bond Act,” referred to in the fourth sentence of subsection (b) of this section, is the Act of September 24, 1917, 40 Stat. 288, ch. 56.

**Editor’s notes.** — Metrorail Funding: Section 7022 of D.C. Law 15-205 provided:

“(a) The Council authorizes the use of \$486,000 from any WMATA fare increase implemented after April 30, 2004, to be made available to meet the District’s contribution to funding the cost of operating the Metro system from 2:00 a.m. to 3:00 a.m. on Saturday and Sunday mornings, beginning January 1, 2005.

“(b) No District funds shall be made available for the service described in subsection (a) of this section unless the service is made a regional service and is funded pursuant to the Metrorail Subsidy Allocation Formula.”

Downtown Circulator Bus Service: Section 7032 of D.C. Law 15-205 provided: “The Council authorizes the use of \$200,000 from any WMATA fare increase implemented after April



30, 2004, to be made available for the Downtown Circulator Bus Service, which amount shall be in addition to the \$500,000 appropriated in the District of Columbia Appropriations Act, 2005.”

Cardozo Pre-Apprenticeship Program: Section 7042 of D.C. Law 15-205 provided: “The Council directs the Washington Metropolitan Area Transit Authority (‘WMATA’) to use \$213,925 from any WMATA fare increase implemented after April 30, 2004, to fund the Electro-Mechanical Technology Training Program for the District of Columbia high school students at Cardozo Senior High School’s Transportation and Technology program.”

Tourists Take Metro to DC Neighborhoods: Section 7052 of D.C. Law 15-205 provided: “The Council authorizes the Washington Metropolitan Area Transit Authority to make \$30,000 of

the District’s subsidy appropriated in the District of Columbia Appropriations Act, 2005 available to Cultural Tourism DC for the continuation of a program encouraging tourists to use Metro to go beyond the monuments into the neighborhoods.”

Metro Bus Funding: Sections 7062 and 7063 of D.C. Law 15-205 provided:

“It is the position of the District government that the Washington Metropolitan Area Transit Authority shall not procure any diesel buses or diesel-electric hybrid buses, with the exception of the Downtown Circulator Bus Service.

“Beginning with fiscal year 2006, the Mayor shall not submit a budget for the Washington Metropolitan Area Transit Authority to the Council of the District of Columbia that funds diesel or diesel-electric hybrid buses, except for the Downtown Circulator Bus Service.”

## § 9-1111.09. Obligations as lawful investments.

(a) Obligations issued by the Transit Authority which are guaranteed by the Secretary of Transportation under § 9-1111.06 shall be lawful investments, and may be accepted as security for fiduciary, trusts, and public funds, the investment or deposit of which shall be under the authority or control of the United States or of any officer or officers thereof, and shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission to the same extent as securities which are issued by the United States.

(b) Any building association, building and loan association, or savings and loan association, incorporated or unincorporated, organized and operating under the laws of the District of Columbia, or any federal savings and loan association, may invest its funds in obligations of the Transit Authority which are guaranteed by the Secretary of Transportation under § 9-1111.06.

(Dec. 9, 1969, Pub. L. 91-143, § 12; July 13, 1972, 86 Stat. 466, Pub. L. 92-349, title I, § 101.)

**Prior Codifications.** — 1981 Ed., § 1-2461. 1973 Ed., § 1-1449.

## § 9-1111.10. Appropriation for Arlington Cemetery and Smithsonian transit stations.

(a) The Secretary of Transportation shall make payments to the Transit Authority in such amounts as may be requisitioned from time to time by the Transit Authority sufficient, in the aggregate, to finance the cost of designing, constructing, and equipping: (1) a rail rapid transit station partially under Memorial Drive designed to serve the Arlington Cemetery with 2 entrances surfacing adjacent to the sidewalks north and south of Memorial Drive and east of Jefferson Davis Highway; and (2) an additional entrance in the vicinity of the northeast end of the Smithsonian Station surfacing on the Mall south of Adams Drive; except that the aggregate amount of such payments shall not exceed \$7,385,000.



(b) There is authorized to be appropriated to the Secretary of Transportation, without fiscal year limitation, an amount not to exceed \$7,385,000 to carry out the purposes of this section. The appropriations authorized in this subsection shall not be subject to the provisions of this subchapter requiring contributions by the local governments and shall be in addition to the appropriations authorized by § 9-1111.02(c).

(Dec. 9, 1969, Pub. L. 91-143, § 13; Oct. 21, 1972, 86 Stat. 1004, Pub. L. 92-517, title VI, § 601.)

**Prior Codifications.** — 1981 Ed., § 1-2462. 1973 Ed., § 1-1450.

### **§ 9-1111.11. Authorization of additional federal contributions for construction.**

(a) The Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized by § 9-1111.02, for the purpose of financing in part the cost of construction of the adopted regional system.

(b) Federal grants under subsection (a) of this section for the adopted regional system shall be subject to § 9-1111.13 and to the following limitations and conditions:

(1) The work for which such grants are authorized shall be subject to the provisions of the Compact and shall be for projects included in the adopted regional system.

(2) The aggregate amount of such federal grants made during any fiscal year shall be matched by the local participating governments by payment of capital contributions for such year in a total amount that is not less than 25 per centum of the amount of such federal grants and shall be provided in cash from sources other than federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or revenues available in cash, or new capital.

(3) Such grants shall be subject to terms and conditions that the Secretary may deem appropriate for constructing the adopted regional system in a cost-effective manner.

(c) There is authorized to be appropriated to the Secretary of Transportation for the purpose of making grants under subsection (a) of this section an aggregate amount not to exceed \$1,700,000,000, except that no appropriation pursuant to this authorization shall be enacted for any fiscal year prior to fiscal year 1982.

(d) Amounts appropriated pursuant to the authorization under subsection (c) of this section:

(1) Shall remain available until expended, if so provided in appropriation acts; and

(2) Shall be in addition to, and not in lieu of, amounts available to the Transit Authority under the Urban Mass Transportation Act of 1964, as amended, and § 103(e)(4) of Title 23, United States Code.

(Dec. 9, 1969, 83 Stat. 320, Pub. L. 91-143, § 14; Jan. 3, 1980, 93 Stat. 1320, Pub. L. 96-184, § 2.)

**Section references.** — This section is referenced in § 9-1111.13.

**Prior Codifications.** — 1981 Ed., § 1-2463.

**References in text.** — Section 103(e)(4) of Title 23, United States Code, referred to in (d)(2), no longer exists after the substantial revision of § 103 by Pub. L. 105-178, title I,

§§ 1106(b), 1212(a)(2)(A), June 9, 1998, 12 Stat. 131, 193.

The Urban Mass Transportation Act of 1964, referred to in (d)(1), is Pub. L. 88-365, 78 Stat. 302, formerly codified as 49 U.S.C. Appx. § 1601 et seq. For present law, see 49 U.S.C. § 5301 et seq.

## § 9-1111.12. Payment of bonds.

(a)(1) The Transit Authority shall maintain a sinking fund to be used for the accumulation of assets for payment of principal on bonds issued by the Transit Authority and guaranteed by the Secretary as provided in § 9-1111.06. The fund shall be administered in accordance with the provisions of the Compact providing for funds established by the Transit Authority, and moneys in the fund may be invested by the Transit Authority in accordance with the Compact and with the Agreement.

(2) The Transit Authority shall use assets of the fund to pay the principal paid or to be paid after October 1, 1979, on bonds issued by the Transit Authority.

(3)(A) Subject to the conditions of the Agreement, the Secretary of Transportation is authorized to make contributions to the Transit Authority, or its fiscal agent, in amounts sufficient to provide for the payment of two thirds of the principal paid or to be paid after June 30, 1979, on bonds issued by the Transit Authority which are guaranteed by the Secretary as provided in § 9-1111.06.

(B) There are authorized to be appropriated beginning in fiscal year 1981 such sums as are necessary to carry out the requirements of subparagraph (A) of this paragraph.

(4) Subject to the conditions of the Agreement, the local participating governments shall make payments to the Transit Authority in amounts sufficient to allow the Transit Authority to make contributions to the fund established pursuant to paragraph (1) of this subsection in amounts sufficient to provide for the payment of one third of the principal paid or to be paid after June 30, 1979, on bonds issued by the Transit Authority which are guaranteed by the Secretary as provided in § 9-1111.06.

(b)(1) The Transit Authority shall maintain a Bond Interest Fund to be used for the accumulation of assets for the timely payment of interest on bonds issued by the Transit Authority and guaranteed by the Secretary as provided in § 9-1111.06. The fund shall be administered in accordance with the provisions of the Compact providing for funds established by the Transit Authority, and moneys in the fund may be invested by the Transit Authority in accordance with the Compact and with the Agreement.

(2)(A) Subject to the conditions of the Agreement, the Secretary of Transportation is authorized to make contributions to the Transit Authority or its fiscal agent, in amounts sufficient to provide for the payment of two thirds

of the total amount of interest paid or to be paid after June 30, 1979, on bonds issued by the Transit Authority which are guaranteed by the Secretary as provided in § 9-1111.06.

(B) There are authorized to be appropriated beginning in fiscal year 1981 such sums as are necessary to carry out the provisions of subparagraph (A) of this paragraph.

(3) With respect to interest payments due prior to July 3, 1983, the Secretary of Transportation, if requested by the Transit Authority, may make accelerated interest payments in amounts sufficient to provide for the payment, as any payment becomes due, of not more than an additional 18½ per centum of the interest due on such bonds at the time of such payment, so long as the total amount of contributions by the Secretary under this subsection does not exceed the amount specified in paragraph (2) of this subsection. Unless otherwise provided in amendments to the Agreement, any accelerated payments made shall bear interest from the date of accelerated payment until liquidation at a rate to be determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding United States marketable obligations which have maturities comparable to the period of time between the time of accelerated payment and the time of liquidation.

(4) Subject to the conditions of the Agreement, the local participating governments shall make payments to the Transit Authority in amounts sufficient to allow the Transit Authority to make contributions to the fund established pursuant to paragraph (1) of this subsection in amounts sufficient to provide for the payment of one third of the interest paid or to be paid after June 30, 1979, on bonds issued by the Transit Authority which are guaranteed by the Secretary as provided in § 9-1111.06.

(5) If as a result of the retirement of the principal of such bonds (or of any portion of such principal) before maturity the total amount of contributions by the Secretary of Transportation after June 30, 1979, for payment of interest on such bonds is at any time in excess of two thirds of the net present value of the total amount of interest paid or to be paid on such bonds after such date, the Transit Authority shall pay to the Secretary the difference between the total amount contributed by the Secretary and two thirds of the net present value of the total amount of interest paid or to be paid on such bonds after such date.

(Dec. 9, 1969, 83 Stat. 320, Pub. L. 91-143, § 15; Jan. 3, 1980, 93 Stat. 1320, Pub. L. 96-184, § 2.)

**Section references.** — This section is referenced in § 9-1111.08, § 9-1111.13, and § 9-1111.15.

**Prior Codifications.** — 1981 Ed., § 1-2464.

### **§ 9-1111.13. Requirement that local participating governments have stable and reliable source of revenue for contributions.**

(a) The Secretary of Transportation shall not make any grant under § 9-1111.11(a) for the cost of construction of the adopted regional system, until the Secretary has determined that the local participating governments, or



signatories (as defined in subparagraph (d) of paragraph 1 of Article I of Title III of the Washington Metropolitan Area Transit Authority Compact) to the Compact, have provided a stable and reliable source of revenue sufficient to meet both:

(1) Their payments to the Transit Authority under subsections (a)(4) and (b)(4) of § 9-1111.12, relating to payment of the principal and interest on bonds issued by the Transit Authority; and

(2) That part of the cost of operating and maintaining the adopted regional system that is in excess of revenues received by the Transit Authority from the operation of the system and any amount to be contributed for operating expenses by the Secretary of Transportation under any other provision of law.

(b) The Transit Authority, in consultation with each governmental entity that is a local participating government or signatory to the Compact as referred to in subsection (a) of this section, for the purposes of this subchapter, shall submit a program to the Secretary of Transportation on or before September 30, 1980, showing how each such governmental entity will have in place on or before August 15, 1982, a stable and reliable source of revenue to provide for its contributions:

(1) For payments to the Washington Metropolitan Area Transit Authority for the payment of principal and interest on bonds issued by the Transit Authority; and

(2) For the cost of operating and maintaining the adopted regional system of the Washington Metropolitan Area Transit Authority.

(Dec. 9, 1969, 83 Stat. 320, Pub. L. 91-143, § 16; Jan. 3, 1980, 93 Stat. 1320, Pub. L. 96-184, § 2.)

**Section references.** — This section is referenced in § 9-1111.11.

**Prior Codifications.** — 1981 Ed., § 1-2465.

## § 9-1111.14. Authorization of additional federal contributions for construction.

(a) The Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized by sections 3 and 14, for the purpose of financing in part the cost of construction of the Adopted Regional System.

(b) Federal grants under subsection (a) for the Adopted Regional System shall be subject to the following limitations and conditions:

(1) The work for which such grants are authorized shall be subject to the provisions of the Compact and shall be for projects included in the Adopted Regional System.

(2) The aggregate amount of such Federal grants made during any fiscal year shall be matched by the local participating governments by payment of capital contributions of not less than 60 percent of the amount of such Federal grants and shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed

cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

(3) Such grants shall be subject to terms and conditions that the Secretary may deem appropriate for constructing the Adopted Regional System in a cost-effective manner which maximizes the rate at which appropriated funds can be utilized to complete all segments for which funds have been authorized.

(c) In addition to funds authorized under section 14, there is authorized to be appropriated to the Secretary of Transportation for the purpose of making grants to complete the Adopted Regional System as provided in subsection (a) an aggregate amount not to exceed \$1,300,000,000 to be available in increments over 8 fiscal years beginning in fiscal year 1992, or until expended.

(d) Amounts appropriated pursuant to the authorization under subsection (c) —

(1) shall remain available until expended; and

(2) shall be in addition to, and not in lieu of, amounts available to the Transit Authority under the Urban Mass Transportation Act of 1964, as amended, and section 103(e)(4) of title 23, United States Code.

(Dec. 9, 1969, Pub. L. 91-143, § 17, as added Nov. 15, 1990, 104 Stat. 2733, Pub. L. 101-551, § 2.)

**Prior Codifications.** — 1981 Ed., § 1-2465.1.

**References in text.** — “Sections 3 and 14”, referred to in (a), and “section 14”, referred to in (c), are section 3 of 83 Stat. 320, Pub. L. 91-143, December 9, 1969, and section 14 of Pub. L. 91-143, as added January 3, 1980, 93 Stat. 1320, Pub. L. 96-184.

“Urban Mass Transportation Act of 1964” referred to in (d)(2), is codified at 49 U.S.C. § 5301 et seq.

Section 103(e)(4) of Title 23, United States Code referred to in (d)(2) no longer exists after the substantial revision of § 103 by Pub. L. 105-178, Title I, §§ 1106(b), 1212(a)(2)(A), June 9, 1998, 112 Stat. 131, 193.

## § 9-1111.15. Establishment of Metrorail/Metrobus Account.

(a) The Mayor of the District of Columbia shall establish within the General Fund an account classification to be known as the “Metrorail/Metrobus Account”.

(b) The following revenues shall be deposited in the General Fund and allocated to the Metrorail/Metrobus Account:

(1) All grant funds earned by the District of Columbia, after September 30, 1981, for eligible transit operating expenses of the Washington Metropolitan Area Transit Authority (“WMATA”) pursuant to § 5 of the Urban Mass Transportation Act of 1964 (49 U.S.C. § 1604) [see now 49 U.S.C. § 5301 et seq.].

(2) All revenues earned, after September 30, 1981, from the taxes, fees, and civil fines and penalties imposed by the following sections:

(A)(i) Section 47-2002(1), (2), and (3), except as provided in sub-subparagraph (ii) of this subparagraph;

(ii) Beginning January 1, 1999, sales tax increment revenues (as defined in § 2-1217.01(27)) shall be excluded from the revenues described in sub-subparagraph (i) of this subparagraph;

- (B) Section 47-2202(1), (2) and (3);
- (C) Sections 47-2301 through 47-2322;
- (D) Section 50-2301.01 et seq., except the booting, towing, and storage fees imposed by § 50-2201.03(k)(4);
- (E) Section 50-2621 [repealed];
- (F) Section 50-2603;
- (G) Section 50-2633; and
- (H) Repealed.

(3) All revenues earned, after September 30, 1983, pursuant to § 50-1501.03.

(4) All revenues earned, after September 30, 1983, pursuant to § 50-2201.03(j).

(c) Revenues earned from the tax imposed pursuant to § 47-1501 [repealed] shall be deposited in the General Fund and allocated to the Metrorail/Metrobus Account classification in such amounts that shall be necessary to cover additional expenditures pursuant to paragraphs (1) and (2) of subsection (e) of this section.

(d) If revenues are insufficient to cover applicable expenditures as required in this subchapter, funding shall be made available from other General Fund revenues to cover the necessary additional amounts as needed pursuant to paragraphs (1) and (2) of subsection (e) of this section.

(e) Subject to the availability of appropriations for such purposes, amounts allocated to the Metrorail/Metrobus Account classification shall be used for the following purposes:

(1) First, for the payment of the District of Columbia's share of:

(A) The cost of operating and maintaining the adopted regional system, as defined in § 9-1111.01(1) pursuant to § 9-1111.03(c);

(B) An amount equal to the Washington Metropolitan Area Transit Authority's ("WMATA") contribution to the sinking fund established by § 9-1111.12(a)(1) pursuant to § 9-1111.12(a)(4) payable through the year 2014. These funds shall be used by WMATA to make debt service payments on the new bonds issued to refund the local share of the federally guaranteed transit revenue bonds;

(C) An amount equal to the Washington Metropolitan Area Transit Authority's contribution to the bond interest fund established by § 9-1111.12(b)(1), pursuant to § 9-1111.12(b)(4) payable through the year 2014. These funds shall be used by WMATA to make debt service payments on the new bonds issued to refund the local share of the federally guaranteed transit revenue bonds; and

(D) Metrorail construction management costs;

(2) Second, for the payment of:

(A) The District of Columbia's share of the Washington Metropolitan Area Transit Authority's Metrobus capital program;

(B) The subsidy required by § 35-236(b);

(C) The subsidy to the Washington Metropolitan Area Transit Authority for reduced fares for the elderly; and

(D) Debt service on amounts borrowed from the United States Treasury for the District of Columbia's share of Metrorail construction costs;



(3) Third, for other authorized expenditures of the District of Columbia government.

(Apr. 30, 1982, D.C. Law 4-103, § 2, 29 DCR 1395; Mar. 16, 1993, D.C. Law 9-202, § 2, 39 DCR 9221; Mar. 25, 1993, D.C. Law 9-250, § 2, 40 DCR 771; Mar. 21, 1995, D.C. Law 10-242, § 13, 42 DCR 86; Aug. 5, 1997, 111 Stat. 781, Pub. L. 105-33, § 11702(a)(1) and (2); Apr. 27, 1999, D.C. Law 12-271, § 3, 46 DCR 3615.)

**Cross references.** — Fund structure to be utilized by District, organization, see § 47-373.

**Prior Codifications.** — 1981 Ed., § 1-2466.

**Emergency legislation.** — For temporary amendment of section, see § 3 of the Tax Increment Financing Emergency Amendment Act of 1998 (D.C. Act 12-562, January 22, 1999, 46 DCR 2104).

Section 5 of D.C. Act 12-562 provided that the provisions of the act shall apply to any project approved by the Council pursuant to § 5 of the Tax Increment Financing Authorization Act of 1998, effective September 11, 1998 (D.C. Law 12-143; to be codified at D.C. Code § 2-1217.04), after the effective date of this act.

**Legislative history of Law 4-103.** — Law 4-103, the “Stable and Reliable Source of Revenues for WMATA Act of 1982,” was introduced in Council and assigned Bill No. 4-61, which was referred to the Committee on Finance and Revenue and the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on February 9, 1982 and February 23, 1982, respectively. Signed by the Mayor on March 10, 1982, it was assigned Act No. 4-164 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-202.** — Law 9-202, the “Stable and Reliable Source of Revenues for WMATA Act of 1982 Temporary Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-583, which was retained by Council. The Bill was adopted on first and second readings on July 7, 1992 and November 4, 1992, respectively. Signed by the Mayor on November 25, 1992, it was assigned Act No. 9-327 and transmitted to both Houses of Congress for its review. D.C. Law 9-202 became effective on March 16, 1993.

**Legislative history of Law 9-250.** — Law 9-250, the “Stable and Reliable Source of Revenues for WMATA Act of 1982 Amendment Act

of 1992,” was introduced in Council and assigned Bill No. 9-584, which was referred to the Committee on Regional Authorities. The Bill was adopted on first and second readings on December 1, 1992 and December 15, 1992, respectively. Signed by the Mayor on January 14, 1993, it was assigned Act No. 9-396 and transmitted to both Houses of Congress for its review. D.C. Law 9-250 became effective on March 25, 1993.

**Legislative history of Law 10-242.** — Law 10-242, the “Clean Air Compliance Fee Act of 1994,” was introduced in Council and assigned Bill No. 10-610, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 28, 1994, it was assigned Act No. 10-387 and transmitted to both Houses of Congress for its review. D.C. Law 10-242 became effective on March 21, 1995.

**Legislative history of Law 12-271.** — Law 12-271, the “Tax Increment Financing Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-829, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 24, 1998, it was assigned Act No. 12-590 and transmitted to both Houses of Congress for its review. D.C. Law 12-271 became effective on April 27, 1999.

**References in text.** — Section 47-1501, referred to in subsection (c) of this section, was repealed Feb. 28, 1987, by D.C. Law 6-212, § 24.

The Urban Mass Transportation Act of 1964, referred to in (b)(1), is Pub. L. 88-365, 78 Stat. 302, formerly codified as 49 U.S.C. Appx. § 1601 et seq. For present law, see 49 U.S.C. § 5301 et seq.

## § 9-1111.16. Annual report of Account.

The Mayor of the District of Columbia shall, by November 1 of each year, submit a report to the Council of the District of Columbia delineating the revenues deposited in the Metrorail/Metrobus Account and the amounts, purposes, and expenditures from the Metrorail/Metrobus Account.

(Apr. 30, 1982, D.C. Law 4-103, § 4, 29 DCR 1395.)

**Prior Codifications.** — 1981 Ed., § 1-2467.  
**Legislative history of Law 4-103.** — Law 4-103, the “Stable and Reliable Source of Revenues for WMATA Act of 1982,” was introduced in Council and assigned Bill No. 4-61, which was referred to the Committee on Finance and Revenue and the Committee on Transportation

and Environmental Affairs. The Bill was adopted on first and second readings on February 9, 1982 and February 23, 1982, respectively. Signed by the Mayor on March 10, 1982, it was assigned Act No. 4-164 and transmitted to both Houses of Congress for its review.

## § 9-1111.17. Funding of facilities for the handicapped.

The Secretary of Transportation is authorized to make payments to the Washington Metropolitan Area Transit Authority in amounts sufficient to finance 80 per centum of the cost of providing such facilities for the subway and rapid rail transit system authorized in this subchapter as may be necessary to make such subway and system accessible by the handicapped through implementation of Public Laws 90-480 and 91-205 (Chapter 51 of Title 42, United States Code). There is authorized to be appropriated, to carry out this section, an amount not to exceed \$65,000,000.

(Aug. 13, 1973, 87 Stat. 271, Pub. L. 93-87, title I, § 140.)

**Cross references.** — Blind and physically disabled persons, equal access to public conveyances and accommodations, see § 7-1002.

**Prior Codifications.** — 1981 Ed., § 1-2453.  
 1973 Ed., § 1-1442a.

### *Subchapter VII. Acquisition of Mass Transit Bus Systems.*

## § 9-1113.01. Acquisition of bus companies; franchise cancelled; charter bus service by Authority; corporate status of D.C. Transit System, Inc.

(a) Based on the findings set forth in § 2 of this Act, it is the sense of the Congress that the Washington Metropolitan Area Transit Authority (hereafter in this subchapter referred to as the “Transit Authority”) should initiate negotiations as soon as possible with the ownership of D.C. Transit System, Incorporated (and its subsidiary, the Washington, Virginia, and Maryland Coach Company), the Alexandria, Barcroft, and Washington Transit Company, and the WMA Transit Company for acquisition by the Transit Authority of capital stock or facilities, plant, equipment, real and personal property of such bus companies of whatever nature, whether owned directly or indirectly, used or useful for mass transportation by bus of passengers within the Washington metropolitan area. It is further the sense of the Congress that representatives of the Transit Authority should participate in any labor contract negotiations undertaken prior to acquisition by the Transit Authority of such bus companies.

(b) The franchise to operate a system of mass transportation of passengers for hire granted to D.C. Transit System, Incorporated, by the Act of July 24, 1956 (70 Stat. 598) is hereby canceled, effective upon the date immediately

preceding the date on which the Transit Authority acquires the transit facilities of D.C. Transit System, Incorporated.

(c)(1) The Transit Authority, and any transit company owned or controlled by the Transit Authority, may operate charter service by bus in accordance with Title III of the Washington Metropolitan Area Transit Regulation Compact only between any point within the transit zone and any point in the State of Maryland or Virginia, or a point within 250 miles of the Zero Mile Stone located on the Ellipse.

(2) For the purposes of this subsection, the term “transit zone” means the area designated in § 3 of Title III of the Washington Metropolitan Area Transit Regulation Compact.

(d)(1) D.C. Transit System, Incorporated, a corporation of the District of Columbia, may:

(A) Continue to exist as such a corporation and amend its charter in any manner provided under the laws of the District of Columbia;

(B) Avail itself of the provisions of Chapter 3 of Title 29 in respect to a change of its name; and

(C) Become incorporated or reincorporated in any manner provided under the laws of the District of Columbia.

(2) Nothing in this Act shall be construed so as to cause or require the corporate dissolution of D.C. Transit System, Incorporated.

(Oct. 21, 1972, 86 Stat. 1001, Pub. L. 92-517, title I, § 102; July 2, 2011, D.C. Law 18-378, § 3(c), 58 DCR 1720.)

**Section references.** — This section is referenced in § 9-1113.02.

**Prior Codifications.** — 1981 Ed., § 1-2471. 1973 Ed., § 1-1461.

**Effect of amendments.** — D.C. Law 18-378, in subsec. (d)(1)(B), substituted “Chapter 3 of Title 29” for “Chapter 1 of Title 29”.

**Legislative history of Law 18-378.** — Law 18-378, the “District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2009”, was introduced in Council and assigned Bill No. 18-500, which was referred to

the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on February 27, 2011, it was assigned Act No. 18-724 and transmitted to both Houses of Congress for its review. D.C. Law 18-378 became effective on July 2, 2011.

**References in text.** — “This Act,” referred to in subsections (a) and (d)(2), is the Act of October 21, 1972, 86 Stat. 1001, Pub. L. 92-517.

## § 9-1113.02. Payment by Mayor of District’s share of acquisition cost authorized.

The Mayor of the District of Columbia is authorized to contract with the Transit Authority for payment to it of the District’s share of the cost to the Transit Authority of acquiring:

(1) The private bus companies referred to in § 9-1113.01(a); and

(2) Any rolling stock, real estate, or other capital resources required for the operation of bus service in the District of Columbia either at the time of acquisition of such bus companies or at some future time.

(Oct. 21, 1972, 86 Stat. 1002, Pub. L. 92-517, title II, § 201(a).)

**Prior Codifications.** — 1981 Ed., § 1-2472. 1973 Ed., § 1-1462.



**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia

Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-1113.03. Capital grant assistance.

The Transit Authority, for the purpose of effecting the acquisition of the mass transit bus system or systems as contemplated by this subchapter, together with such improvements or replacement of acquired equipment and facilities as may be found necessary or desirable by the Secretary of Transportation (hereafter in §§ 9-1113.03 to 9-1113.05 referred to as the "Secretary") in conjunction with such acquisition and within a reasonable time thereafter, not to exceed 6 months, is eligible for capital grant assistance pursuant to § 3 of the Urban Mass Transportation Act of 1964. For this purpose, the Transit Authority shall be considered a "local public body" within the meaning of that section and, accordingly, the Secretary may authorize and approve capital grant assistance to the Transit Authority in the maximum amount provided for in the Urban Mass Transportation Act of 1964 toward the cost of acquisition of such bus system or systems, including the cost of improvements to or replacement of acquired equipment and facilities approved by the Secretary in conjunction with such acquisition. Such assistance shall be provided from funds available to the Urban Mass Transportation Administration of the Department of Transportation.

(Oct. 21, 1972, 86 Stat. 1002, Pub. L. 91-517, title III, § 301.)

**Section references.** — This section is referenced in § 9-1113.04.

**Prior Codifications.** — 1981 Ed., § 1-2473.  
1973 Ed., § 1-1463.

**References in text.** — "Section 3 of the Urban Mass Transportation Act of 1964" was formerly codified at 49 U.S.C. § 1602. See now, generally, 49 U.S.C. § 5309.

### § 9-1113.04. Immediate grants.

(a) If the Secretary should determine that immediate action is urgently required to protect the public interest in the national capital area, he may waive any or all provisions of the Urban Mass Transportation Act of 1964 (except § 13(c) thereof), and immediately grant to the Transit Authority from funds available to the Urban Mass Transportation Administration of the Department of Transportation such sums as are contemplated under § 9-1113.03.

(b) The Secretary, after determining that immediate action is necessary in the public interest in accordance with subsection (a) of this section, may, in accordance with subsection (c) of this section, advance from funds available to the Urban Mass Transportation Administration of the Department of Transportation such funds as he determines to be necessary for payment to the Transit Authority to provide temporary financing for that portion of the cost of acquisition of the mass transit bus system or systems contemplated by this

subchapter, together with associated improvements to or replacement of acquired equipment and facilities, which are not provided for by the Secretary pursuant to § 9-1113.03. For this purpose, such advance shall not be construed as a loan made under § 3 of the Urban Mass Transportation Act of 1964. Funds advanced pursuant to this section shall be considered as "other than federal funds" within the meaning of § 4(a) of the Urban Mass Transportation Act of 1964.

(c) The Secretary shall not advance funds under this section until he has determined that the Transit Authority has the capacity and ability to arrange for repayment of such advance in accordance with § 9-1113.05.

(Oct. 21, 1972, 86 Stat. 1002, Pub. L. 92-517, title III, § 302.)

**Section references.** — This section is referenced in § 9-1113.05.

**Prior Codifications.** — 1981 Ed., § 1-2474.  
1973 Ed., § 1-1464.

**References in text.** — The "Urban Mass Transportation Act of 1964," referred to throughout this section, is now codified at 49 U.S.C. § 5301 et seq.

### § 9-1113.05. Repayment of advances.

The advance authorized under § 9-1113.04(b) shall be repaid by the Transit Authority to the Urban Mass Transportation Administration of the Department of Transportation from contributions by the District of Columbia and other local government jurisdictions or from other non-federal sources as may be available to the Transit Authority and which were not estimated to be available for financing the mass transit rail rapid system authorized by subchapter VI of this chapter. Repayment of such advance may be deferred by the Secretary of Transportation, at the request of the Transit Authority, but not beyond the end of the fiscal year following the fiscal year in which the advance was made. Repayment shall be made with interest at a rate to be determined by the Secretary of the Treasury calculated in accordance with the formula set forth in § 3(c) of the Urban Mass Transportation Act of 1964. Principal and interest repaid pursuant to this section shall be credited to the Urban Mass Transportation Fund and shall be considered a restoration of obligational authority available to the Secretary under § 4(c) of the Urban Mass Transportation Act of 1964.

(Oct. 21, 1972, 86 Stat. 1003, Pub. L. 92-517, title III, § 303.)

**Section references.** — This section is referenced in § 9-1113.04.

**Prior Codifications.** — 1981 Ed., § 1-2475.  
1973 Ed., § 1-1465.

**References in text.** — The "Urban Mass Transportation Act of 1964," referred to in this section, is now codified at 49 U.S.C. § 5301 et seq.

### § 9-1113.06. Jurisdiction for condemnation proceedings.

(a) The United States District Court for the District of Columbia shall have complete and exclusive jurisdiction over any proceedings by the Transit Authority for the condemnation of property, wherever situated, of D.C. Transit System, Incorporated (including its subsidiary, the Washington, Virginia, and Maryland Coach Company), the Alexandria, Barcroft, and Washington Transit

Company, and the WMA Transit Company. Such proceedings shall be instituted and maintained in accordance with the provisions of this section and the provisions of subchapter IV of Chapter 13 of Title 16, except that the court may appoint a commission in accordance with Rule 71A(h) of the Federal Rules of Civil Procedure in connection with the issue of compensation arising out of any such proceedings.

(b) Any such condemnation proceedings shall be commenced by the Attorney General of the United States, upon the request of the Transit Authority, by filing with the United States District Court for the District of Columbia a complaint and declaration of taking containing a description of the land and other assets to be taken, together with a sum of money deposited with the Registrar of such Court in accordance with the applicable provisions of law set forth in subsection (a) of this section. Upon such filing and deposit, title to the possession of the assets described in any such complaint and declaration of taking shall pass to the Transit Authority and the value of the assets so acquired shall be determined as of that date.

(c) The trial of any such condemnation proceedings shall be a preferred cause and shall be commenced at the earliest date convenient to the Court.

(d) Any proceeding brought by the Transit Authority under this section against the Alexandria, Barcroft, and Washington Transit Company shall be transferred, upon motion made by such Transit Company, to the United States District Court for the Eastern District of Virginia, and such District Court shall have, upon such transfer, complete and exclusive jurisdiction over such proceeding. Any action brought by the Transit Authority under this section against the WMA Transit Company, shall be transferred, upon motion made by the WMA Transit Company, to the United States District Court for the District of Maryland, and such District Court shall have, upon such transfer, complete and exclusive jurisdiction over such proceeding.

(Oct. 21, 1972, 86 Stat. 1003, Pub. L. 92-517, title IV, § 401.)

**Prior Codifications.** — 1981 Ed., § 1-2476.      1973 Ed., § 1-1466.

## § 9-1113.07. Authority of Comptroller General.

The Comptroller General of the United States shall have access to all books, records, papers, and accounts and operations of the Transit Authority, and any company with which the Transit Authority is conducting negotiations under this subchapter, and any company eligible to receive or receiving any funds authorized by this subchapter. The Comptroller General is authorized to inspect any facility or real or personal property of the Transit Authority or of such companies.

(Oct. 21, 1972, 86 Stat. 1004, Pub. L. 92-517, title V, § 501.)

**Prior Codifications.** — 1981 Ed., § 1-2477.      1973 Ed., § 1-1467.



*Subchapter VIII. Woodrow Wilson Bridge and Tunnel Compact.***§ 9-1115.01. Authority to enter into Compact.**

The Mayor is hereby authorized to execute, on behalf of the District of Columbia, the Woodrow Wilson Bridge and Tunnel Compact ("Compact") with the Commonwealth of Virginia and the State of Maryland, which Compact shall be as it appears in § 9-1115.03.

(Feb. 28, 1996, D.C. Law 11-96, § 2, 42 DCR 7185.)

**Section references.** — This section is referenced in § 9-1115.03.

**Prior Codifications.** — 1981 Ed., § 1-2481.

**Legislative history of Law 11-96.** — Law 11-96, the "Woodrow Wilson Bridge and Tunnel Compact Authorization Act of 1995," was introduced in Council and assigned Bill No. 11-104, which was referred to the Committee on Public

Services and Regional Authorities. The Bill was adopted on first and second readings on November 7, 1995, and December 5, 1995 respectively. Signed by the Mayor on December 19, 1995, it was assigned Act No. 11-179 and transmitted to both Houses of Congress for its review. D.C. Law 11-96 became effective on February 28, 1996.

**§ 9-1115.02. Preamble to Compact.**

(1) Whereas, traffic congestion imposes serious economic burdens in the Washington, D.C., metropolitan area, costing commuters an estimated \$1,000 each per year.

(2) Whereas, the average length of commute in the Washington, D.C., metropolitan area is second only to metropolitan New York, demonstrating the severity of traffic congestion.

(3) Whereas, the Woodrow Wilson Memorial Bridge was designed to carry 70,000 vehicles per day, but carries an actual load of 160,000 vehicles per day.

(4) Whereas, the volume of traffic in the metropolitan Washington, D.C., area is expected to increase by more than 70% between 1990 and 2020.

(5) Whereas, the deterioration of the Woodrow Wilson Memorial Bridge and the growing population in the metropolitan Washington, D.C., area account for a large part of traffic congestion, and identifying alternatives to this vital link in the interstate highway system and the Northeast corridor is critical to addressing the area's traffic congestion.

(6) Whereas, the Woodrow Wilson Memorial Bridge is the only drawbridge on the regional interstate network, the only piece of the Capital Beltway with only 6 lanes, and the only segment with a remaining life span of only 10 years.

(7) Whereas, the existing Woodrow Wilson Memorial Bridge is the only part of the interstate system owned by the federal government, and, while the District of Columbia, Maryland, and Virginia maintain and operate the bridge, no entity has ever been granted full and clear responsibility for all aspects of this facility.

(8) Whereas, continued federal government ownership of the Woodrow Wilson Memorial Bridge will impede cohesive regional transportation planning as it relates to identifying alternative solutions for resolving problems of the existing Woodrow Wilson Memorial Bridge.

(9) Whereas, any change in the status of the Woodrow Wilson Memorial Bridge must take into account the interest of nearby communities, the

commuting public, and other interested groups, as well as the interest of the federal government and the state and local governments involved.

(10) Whereas, in recognition of a need for a limited federal role in the management of this bridge and the growing local interest, the U.S. Secretary of Transportation has recommended a transfer of authority and ownership from the federal to the local and state level, consistent with the management of other bridges elsewhere in the nation.

(11) Whereas, a commission comprised of congressional, state, and local officials and transportation representatives has recommended transfer of the Woodrow Wilson Memorial Bridge to an independent authority to be created by the State of Maryland, the Commonwealth of Virginia, and the District of Columbia.

(12) Whereas, a coordinated approach without regard to political and legal jurisdictional boundaries, through the cooperation of the State of Maryland, the Commonwealth of Virginia, and the District of Columbia by and through a common agency similar to other Washington, D.C., area authorities, is a proper and necessary step looking toward the alleviation of traffic problems related to the inadequacy of the existing Woodrow Wilson Memorial Bridge.

(Feb. 28, 1996, D.C. Law 11-96, § 3, 42 DCR 7185.)

**Prior Codifications.** — 1981 Ed., § 1-2482.

**Legislative history of Law 11-96.** — For legislative history of D.C. Law 11-96, see His-

torical and Statutory Notes following § 9-1115.01.

### § 9-1115.03. Woodrow Wilson Bridge and Tunnel Compact.

The Compact referred to in § 9-1115.01 shall be as follows:

Now, therefore, the District of Columbia, Commonwealth of Virginia, and State of Maryland, hereinafter referred to as “the signatories,” do hereby covenant and agree as follows:

#### WOODROW WILSON BRIDGE AND TUNNEL COMPACT

##### TITLE I

##### General Provisions

##### Article I

There is hereby created the National Capital Region Woodrow Wilson Bridge and Tunnel Authority, hereinafter referred to as the “Authority”, which shall embrace the District of Columbia, the cities of Alexandria, Fairfax, and Falls Church, the counties of Arlington and Fairfax, and the political subdivisions of the Commonwealth of Virginia located within those counties, and the counties of Montgomery and Prince Georges in the State of Maryland and the political subdivisions of the State of Maryland located within those counties.

##### Article II

The Authority shall be an instrumentality and common agency of the District of Columbia, the Commonwealth of Virginia, and the State of Mary-

land and shall have the powers and duties set forth in this Compact and such additional powers and duties as may be conferred upon it by subsequent action of the governing authorities of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland.

### Article III

1. The Authority shall be governed by a Board of 13 members appointed as follows:

(a) Four members shall be appointed by, and serve at the pleasure of, the Governor of the Commonwealth of Virginia;

(b) Four members shall be appointed by, and serve at the pleasure of, the Governor of the State of Maryland, with the advice and consent of the Senate of Maryland;

(c) Four members shall be appointed by, and serve at the pleasure of, the Mayor of the District of Columbia, with the advice and consent of the Council of the District of Columbia; and

(d) One member shall be appointed by the U.S. Secretary of Transportation.

2. Members, other than members who are elected officials, shall have backgrounds in finance, construction lending, and infrastructure policy disciplines. One member each from the District of Columbia, the Commonwealth of Virginia, and the State of Maryland shall be an incumbent elected official. No other member shall hold elective or appointive public office.

3.(a) No Board member, officer, or employee shall:

(1) Be financially interested, either directly or indirectly, in any contract, sale, purchase, lease, or transfer of real or personal property to which the Board or the Authority is a party;

(2) In connection with services performed within the scope of his or her official duties, solicit or accept money or any other thing of value in addition to the compensation or expenses paid to him or her by the Authority; or

(3) Offer money or any other thing of value for, or in consideration of, obtaining an appointment, promotion, or privilege in his or her employment with the Authority.

(b) Any Board member, officer, or employee who shall willfully violate any provision of this section shall, in the discretion of the Board, forfeit his or her office or employment.

(c) Any contract or agreement made in contravention of this section may be declared void by the Board.

(d) Nothing in section 3 of this article shall be construed to abrogate or limit the applicability of any federal, state, or District of Columbia law which may be violated by any action proscribed by this section.

4. The Chairperson of the Authority shall be elected biennially by its members.

5. The members also may elect biennially a secretary and a treasurer, or a secretary-treasurer, who may be members of the Authority, and prescribe their duties and powers.



6. Each member shall serve a 6-year term, except that each signatory shall make its initial appointments as follows:

- (a) Two members shall each be appointed for a 6-year term;
- (b) One member shall be appointed for a 4-year term; and
- (c) One member shall be appointed for a 2-year term.

7. The failure of a signatory or the U.S. Secretary of Transportation to appoint one or more members shall not impair the Authority's creation or preclude the Authority from functioning when vacancies occur, except that the minimum number of members required at any time for the Authority to function shall be seven.

8. Any person appointed to fill a vacancy shall serve for the unexpired term. No member of the Authority shall serve for more than two terms.

9. The members of the Authority, including nonvoting members, if any, shall not be personally liable for any act done, or action taken, in their capacities as members of the Authority, nor shall they be personally liable for any bond, note, or other evidence of indebtedness issued by the Authority. Except as provided in this Compact, only the Authority shall be liable for its contracts and for its torts and those of its agents, members, and employees. Nothing in this Compact shall be construed as a waiver by the District of Columbia, the Commonwealth of Virginia, or the State of Maryland of immunity from suit.

10. Seven members shall constitute a quorum, with the following exceptions:

(a) Eight affirmative votes shall be required to approve bond issues and the annual budget of the Authority;

(b) Two affirmative votes by members from the affected signatory shall be required to approve operations or matters solely intrastate or solely within the District of Columbia; and

(c) Any sole source procurement of property, services, or construction in excess of \$100,000 shall require the prior approval of a majority of the members.

11. Members shall serve without compensation and shall reside in the metropolitan Washington, D.C., area. Members shall be entitled to reimbursement for their expenses incurred in attending the meetings of the Authority and while otherwise engaged in the discharge of their duties as members of the Authority.

12. The Authority may employ such engineering, technical, legal, clerical, and other personnel on a regular, part-time, or consulting basis as in its judgment may be necessary for the discharge of its duties. The Authority shall not be bound by any statute or regulation of any signatory in the employment or discharge of any officer or employee of the Authority, except as may be contained in this compact.

13. The Authority may fix and provide for the qualification, appointment, removal, term, tenure, compensation, pension, and retirement rights of its officers and employees without regard to the laws of any of the signatories, and may establish, in its discretion, a personnel system based on merit and fitness and, subject to eligibility, participate in the pension and retirement plans of

any signatory, or political subdivision or agency thereof, upon terms and conditions mutually acceptable.

14. The Authority shall establish its office for the conduct of its affairs at a location to be determined by the Authority and shall publish rules and regulations governing the conduct of its operations.

15. The Authority shall adopt procedures that are not in conflict with the applicable federal law on administrative procedures, open meetings, and public information.

#### Article IV

16. Nothing herein shall be construed:

(a) To amend, alter, or in any way affect the power of the signatories and the political subdivisions thereof to levy and collect taxes on property or income or to levy, assess, and collect franchise or other similar taxes or fees for the licensing of vehicles and the operation thereof; or

(b) To confer any exemption from taxes related to the sale of any material, equipment, or supplies purchased by or on behalf of the Authority.

#### Article V

17. This Compact shall be adopted by all the signatories in a manner provided by law therefor and shall be signed and sealed in four duplicate original copies. One such copy shall be filed with the Secretary of State of the State of Maryland, the Secretary of the Commonwealth of Virginia, and the Secretary of the District of Columbia in accordance with the laws of each. One copy shall be filed and retained in the archives of the Authority upon its organization. This Compact shall become effective 90 days after the enactment of concurring legislation by, or on behalf of, the District of Columbia, Maryland, and Virginia, and consent thereto by the Congress of the United States and when all other acts or actions have been taken, including the signing and execution of the Title by the Governors of Maryland and Virginia and the Mayor of the District of Columbia.

#### Article VI

18. Any signatory may withdraw from the Compact upon one year's written notice to that effect to the other signatories. In the event of a withdrawal of one of the signatories from the Compact, the Compact shall be terminated; provided, however, that no revenue bonds, notes, or other evidence of obligation issued pursuant to Article VI of Title II or any other financial obligations of the Authority remain outstanding and that the withdrawing signatory has made a full accounting of its financial obligations, if any, to the Authority and the other signatories.

19. Upon the termination of this Compact, the jurisdiction over the matters and persons covered by this Compact shall revert to the signatories and the federal government, as their interests may appear.

## Article VII

20. Each of the signatories pledges to each of the other signatory parties faithful cooperation in the solution and control of transit and traffic problems with the Woodrow Wilson Memorial Bridge and, in order to effect such purposes, agrees to consider in good faith and request any necessary legislation to achieve the objectives of the Compact to the mutual benefit of the citizens living within the Washington, D.C., metropolitan area and for the advancement of the interests of the signatories hereto.

## Article VIII

21. The Authority shall not undertake the ownership of the existing Woodrow Wilson Memorial Bridge, or any duties or responsibilities associated herewith, until the Governors of Maryland and Virginia and the Mayor of the District of Columbia have entered into an agreement with the U.S. Secretary of Transportation establishing the federal share of the cost of a new Woodrow Wilson bridge or tunnel. Such federal funds shall be in addition to, and shall not diminish, the federal transportation funding allocated to the District of Columbia, the Commonwealth of Virginia, and the State of Maryland. Upon all parties' approval of this agreement, the Authority shall have sole responsibility for duties concerning ownership, construction, operation, and maintenance of the project, as hereinafter defined.

## Article IX

22. If any part or provision of this Compact or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Compact or the application thereof to other persons or circumstances, and the signatories hereby declare that they would have entered into this Compact or the remainder thereof had the invalidity of such provision or application thereof been apparent.

23. This Compact shall be liberally construed to effectuate the purposes for which it is created.

24. The United States District Courts shall have original jurisdiction, concurrent with the courts of the District of Columbia, Maryland, and Virginia, of all actions brought by or against the Authority. Any such action shall be removable to the appropriate United States District Court in the manner provided by 28 U.S.C. 1446.

## TITLE II

## Woodrow Wilson Memorial Bridge and Tunnel Revenue Bond Act

## Article I

## Definitions

25. As used in this title, the following words shall have the following meanings:



(a) "Cost," as applied to the project defined in this article, means the cost of acquisition of all lands, structures, rights-of-way, franchises, easements and other property rights and interests; the cost of lease payments; the cost of construction; the cost of demolishing, removing, or relocating any buildings or structures on lands acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, relocated, or reconstructed; the cost to relocate residents or businesses from properties acquired for the project; the cost of any extensions, enlargements, additions, and improvements; the cost of all labor, materials, machinery and equipment, financing charges, and interest on all bonds prior to and during construction and, if deemed advisable by the Authority, of such construction; the cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, and other expenses necessary or incident to determining the feasibility or practicability of constructing the project, administrative expenses, provisions for working capital, and reserves for interest and for extensions, enlargements, additions, and improvements; the cost of bond insurance and other devices designed to enhance the credit worthiness of the bonds; and such other expenses as may be necessary or incidental to the construction of the project, the financing of such construction, and the planning of the project in operation.

(b) "Owner" shall include all persons as defined in section 2(5) of the General Legislative Procedures Act of 1975, effective September 23, 1975 (D.C. Law 1-17; § 1-301.45(5)), having any interest or title in property, rights, franchises, easements, and interests authorized to be acquired by this subchapter.

(c) "Project" means the existing Woodrow Wilson Memorial Bridge and a new bridge or tunnel, or a bridge and tunnel project adjacent to the existing Woodrow Wilson Memorial Bridge and associated rail transit facilities, including any necessary work on highways directly connected to the existing Woodrow Wilson Memorial Bridge, to a new bridge or tunnel; administration, storage, and other buildings and facilities which the Authority may deem necessary for the operation of such project; and all property, rights, franchises, easements, and interests which may be acquired by the Authority for the construction or the operation of such project. Such project shall be substantially the same as that recommended by the Woodrow Wilson Bridge Improvement Study Coordination Committee established in 1992 by the Federal Highway Administration, and as included in the adopted Long Range Plan and Transportation Improvement Program of the National Capitol Region Transportation Planning Board.

## Article II

### Bonds Not to Constitute a Debt or Pledge of Taxing Power

26. Revenue bonds, notes, or other evidence of obligation issued under the provisions of this subchapter shall not be deemed to constitute a debt or a pledge of the faith and credit of the Authority or of any signatory government or political subdivision thereof, but such bonds, notes, or other evidence of

obligation shall be payable solely from the funds herein provided therefor from tolls and other revenues. The issuance of revenue bonds, notes, or other evidence of obligation, under the provisions of this subchapter, shall not directly, indirectly, or contingently obligate the Authority, or any signatory government or political subdivision thereof, to levy or to pledge any form of taxation whatever therefor. All such revenue bonds, notes, or other evidence of obligation shall contain a statement on their face substantially to the foregoing effect.

### Article III

#### Additional Powers of the Authority

27. Without in any manner limiting or restricting the powers heretofore given to the Authority, the Authority is hereby authorized and empowered:

(a) To establish, finance, construct, maintain, repair, and operate the project;

(b) Subject to the approval of the Governors of Maryland and Virginia and the Mayor of the District of Columbia of the agreement referred to in Article VIII of Title I, to assume full rights of ownership of the existing Woodrow Wilson Memorial Bridge;

(c) Subject to the approval of the Governors of Maryland and Virginia and the Mayor of the District of Columbia, and in accordance with the recommendations of the Woodrow Wilson Bridge Improvement Study Coordination Committee, to determine the location, character, size, and capacity of the project; to establish, limit, and control such points of ingress to and egress from the project as may be necessary or desirable in the judgment of the Authority to ensure the proper operation and maintenance of the project; and to prohibit entrance to such project from any point or points not so designated;

(d) To secure all necessary federal, state, and local authorizations, permits, and approvals for the construction, maintenance, repair, and operation of the project;

(e) To adopt and amend bylaws for the regulation of its affairs and the conduct of its business;

(f) To adopt and amend rules and regulations to carry out the powers granted by this article;

(g) To acquire, by purchase or condemnation, in the name of the Authority, and to hold and dispose of, real and personal property for the corporate purposes of the Authority;

(h) To acquire full information to enable it to establish, construct, maintain, repair, and operate the project;

(i) To employ consulting engineers, a superintendent or manager of the project, and such other engineering, architectural, construction and accounting experts, and inspectors, attorneys, and such other employees as may be deemed necessary, and within the limitations prescribed in this Compact, and to prescribe their powers and duties and to fix their compensation;

(j) To pay, from any available moneys, the cost of plans, specifications, surveys, estimates of cost and revenues, legal fees, and other expenses



necessary or incident to determining the feasibility or practicability of financing, constructing, maintaining, repairing, and operating the project;

(k) To issue revenue bonds, notes, or other evidence of obligation of the Authority, for any of its corporate purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this Compact;

(l) To fix and revise from time to time and to charge and collect tolls and other charges for the use of the project;

(m) To make and enter into all contracts or agreements, as the Authority may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted under this Compact;

(n) To accept loans and grants of money, materials, or property at any time from the United States of America, the Commonwealth of Virginia, the State of Maryland, the District of Columbia, or any agency or instrumentality thereof;

(o) To adopt an official seal and alter the same at its pleasure;

(p) Subject to Article III, Section 9 of Title I of this Compact, to sue and be sued, plead and be impleaded, all in the name of the Authority;

(q) To exercise any power usually possessed by private corporations performing similar functions, including the right to expend, solely from funds provided under the authority of this Compact, such funds as may be considered by the Authority to be advisable or necessary in advertising its facilities and services to the traveling public; and

(r) To do all acts and things necessary or incidental to the performance of its duties and the execution of its powers under this Compact.

## Article IV

### Acquisition of Property

28. The Authority is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, solely from funds provided under the authority of this Compact, such lands, structures, rights-of-way, property, rights, franchises, easements, and other interest in lands, including lands lying under water and riparian rights, which are located within the jurisdictions of the Washington, D.C., metropolitan area, as described in Article I of Title I of this Compact, as it may deem necessary or convenient for the construction and operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof; and to take title thereto in the name of the Authority.

29. All counties, cities, towns, and other political subdivisions and all public agencies and authorities of the signatories, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant, or convey to the Authority at the Authority's request, upon such terms and conditions as the proper authorities of such counties, cities, towns, political subdivisions, agencies, or authorities may deem reasonable and fair and without the necessity for any advertisement, order of court or other action



or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public roads and other real property already devoted to public use.

30. Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, unknown, or unable to convey valid title, the Authority is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements, and other property deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration of public or private property damaged or destroyed.

31. Whenever the Authority acquires property under Article IV of this Title, it shall comply with the applicable federal law relating to relocation and relocation assistance. If there is no applicable federal law, the Authority shall comply with the applicable provision of state or District of Columbia law in which the property is located.

#### Procurement

32. Except as provided in sections 33, 34, and 37, and except in the case of procurement procedures otherwise expressly authorized by federal statute, the Authority, in conducting a procurement of property, services, and construction, shall:

(a) Obtain full and open competition through the use of competitive procedures in accordance with the requirements of this section; and

(b) Use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement. In determining the competitive procedure appropriate under the circumstances, the Authority shall:

(1) Solicit sealed bids if:

(A) Time permits the solicitation, submission, and evaluation of sealed bids;

(B) The award will be made on the basis of price and other price-related factors;

(C) It is not necessary to conduct discussions with the responding sources about their bids; and

(D) There is a reasonable expectation of receiving more than one sealed bid; or

(2) Request competitive proposals if sealed bids are not appropriate under paragraph (1) of this subsection.

33. The Authority may provide for the procurement of property, services, or construction covered by this article using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property, service, or construction if the Authority determines that excluding the source would increase or maintain competition and would likely result in reduced overall costs for procurement of property, services, and construction.

34. The Authority may use procedures other than competitive procedures if:

(a) The property, services, or construction needed by the Authority are available from only one responsible source and no other type of property, services, or construction will satisfy the needs of the Authority;

(b) The Authority's need for the property, services, or construction is of such an unusual and compelling urgency that the Authority would be seriously injured unless the Authority limits the number of sources from which it solicits bids or proposals;

(c) The Authority determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement; or

(d) The property or services needed can be obtained through federal or other sources at reasonable prices.

35. For the purposes of applying section 34(a):

(a) In the case of a contract for property, services, or construction to be awarded on the basis of acceptance of an unsolicited proposal, the property, services, or construction shall be deemed to be available from only one responsible source if the source has submitted an unsolicited proposal that demonstrates a concept:

(1) That is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability to provide the service; and

(2) The substance of which is not otherwise available to the Authority and does not resemble the substance of a pending competitive procurement; or

(b) In the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment or the continued provision of highly specialized services, the property, services, or construction may be deemed to be available from only the original source and may be procured through procedures other than competitive procedures if it is likely that award to a source other than the original source would result in:

(1) Substantial duplication of cost to the Authority that is not expected to be recovered through competition; or

(2) Unacceptable delays in fulfilling the Authority's needs.

36. If the Authority uses procedures other than the competitive procedures to procure property, services, or construction under section 34(b), the Authority shall request offers from as many potential sources as is practicable under the circumstances.

37. (a) To promote efficiency and economy in contracting, the Authority may use simplified acquisition procedures for purchases of property, services, or construction.

(b) For the purposes of this section, simplified acquisition procedures may be used for purchases for an amount that does not exceed the simplified acquisition threshold adopted by the federal government.

(c) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the procedures under subsection (a) of this section.

(d) In using simplified acquisition procedures, the Authority shall promote competition to the maximum extent practicable.

38. The Board shall adopt policies and procedures to implement sections 32-37 of this Article. The policies and procedures shall provide for publication of notice of procurements and other actions designed to secure competition where competitive procedures are used.

39. The Authority, in its discretion, may reject any and all bids or proposals received in response to a solicitation.

## Article V

### Incidental Powers

40. The Authority shall have power to construct grade separations at intersections of the project with public highways and to change and adjust the lines and grades of such highways so as to accommodate the same to the design of such grade separation. The cost of such grade separations, and any damage incurred in changing and adjusting the lines and grades of such highways, shall be ascertained and paid by the Authority as a part of the cost of the project. If the Authority shall find it necessary to change the location of any portion of any public highway, it shall cause the same to be reconstructed at such location as the Authority shall deem most favorable and of substantially the same type and in as good condition as the original highway. The cost of such reconstruction and any damage incurred in changing the location of any such highway shall be ascertained and paid by the Authority as a part of the cost of the project.

41. Subject to the approval by the highest ranking official of the jurisdiction in which the work is to take place, as the case may be, the Mayor of the District of Columbia, Governor of Maryland, or Governor of Virginia, any public highway affected by the construction of the project may be vacated or relocated by the Authority in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the Authority as a part of the cost of the project.

42. In addition to the foregoing powers, the Authority and its authorized agents and employees may enter upon any lands, waters, and premises in the District of Columbia, Commonwealth of Virginia, and State of Maryland for the purpose of making surveys, soundings, drillings, and examinations as they may deem necessary or convenient for the purposes of this Compact, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending. The Authority shall make reimbursement for any actual damage resulting to such lands, waters, and premises as a result of such activities.

43. The Authority shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances (herein called "public utility facilities") of any public utility in, on, along, over, or under the project. Whenever the Authority shall determine that it is necessary that any such public utility facilities which



now are, or hereafter may be, located in, on, along, over, or under the project should be relocated in the project, or should be removed from the project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the Authority, provided that the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the Authority as a part of the cost of the project. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations.

44. The Authority may use all lands owned by the District of Columbia, Commonwealth of Virginia, and State of Maryland, including lands lying under water, which are necessary for the construction or operation of the project subject to approval of the highest-ranking official of the affected jurisdiction.

## Article VI

### Revenue Bonds

45. The Authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds, notes, or other evidence of obligation of the Authority to pay all or a part of the cost of all or a part of the project.

## Article VII

### Trust Indenture

46. In the discretion of the Authority, any bonds, notes, or other evidence of obligation issued under the provisions of this Compact may be secured by a trust indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the District of Columbia, Commonwealth of Virginia, or State of Maryland. Such trust indenture or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage the project or any part thereof.

## Article VIII

### Revenues

47. The Authority is hereby authorized to fix, revise, charge, and collect tolls for the use of the project, and to contract with any person, partnership, association, or corporation desiring the use thereof, and to fix the terms, conditions, rents, and rates of charges for such use.

48. Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the project as to provide a fund sufficient with other revenues, if any, to pay the cost of maintaining, repairing, and operating such project, and the principal of, and the interest on, such bonds as the same shall become due and payable, and to create reserves for such purposes. Such tolls shall not be subject to supervision or regulation by any other authority, board, bureau, or agency of the District of Columbia, Commonwealth of Virginia, or State of Maryland. The tolls and all other revenues derived from the project in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust indenture securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust indenture in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of, and the interest on, such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. The tolls, other revenues, or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture. Except as may otherwise be provided in such resolution or such trust indenture, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

#### Article IX

##### Trust Funds

49. All moneys received pursuant to the authority of this Compact, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this Compact. The resolution authorizing the bonds of any issue or the trust indenture securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes thereof, subject to such regulations as this Compact and such resolution or trust indenture may provide.

#### Article X

##### Remedies

50. Any holder of bonds, notes, or other evidence of obligation issued

under the provisions of this Compact or any of the coupons appertaining thereto, and the trustee under any trust indenture, except to the extent the rights herein given may be restricted by such trust indenture or the resolution authorizing the issuance of such bonds, notes, or other evidence of obligation, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the District of Columbia, Commonwealth of Virginia, and State of Maryland, or granted hereunder or under such trust indenture or the resolution authorizing the issuance of such bonds, notes, or other evidence of obligation, and may enforce and compel the performance of all duties required by this Compact or by such trust indenture or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging, and collecting of tolls.

## Article XI

### Tax Exemption

51. The exercise of the powers granted by this Compact will be in all respects for the benefit of the people of the District of Columbia, Commonwealth of Virginia, and State of Maryland and for the increase of their commerce and prosperity, and as the operation and maintenance of the project will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the project or any property acquired or used by the Authority under the provisions of this Compact or upon the income therefrom, and the bonds, notes, or other evidence of obligation issued under the provisions of this Compact, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the District of Columbia, Commonwealth of Virginia, and State of Maryland.

## Article XII

### Bonds Eligible for Investment

52. Bonds, notes, or other evidence of obligation issued by the Authority under the provisions of this Compact are hereby made securities in which all public officers and public bodies of the District of Columbia, Commonwealth of Virginia, and State of Maryland and their political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds, notes, or other evidence of obligation are hereby made securities which may properly and legally be deposited with, and received by, any District of Columbia, Commonwealth of Virginia, and State of Maryland municipal officer or any agency or political subdivision thereof for any purpose for which the deposit of bonds, notes, or other evidence of obligation is now or may hereafter be authorized by law.



## Article XIII

## Miscellaneous

53. Any action taken by the Authority under the provisions of this Compact may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted.

54. The project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the Authority. The project shall also be policed and operated by such force of police, toll-takers, and other operating employees as the Authority may in its discretion employ. The Authority shall comply with all laws, ordinances, and regulations of the signatories and political subdivisions and agencies thereof with respect to the use of streets, highways, and all other vehicular facilities, traffic control and regulation, signs, and buildings.

55. An Authority police officer shall have all the powers granted to a peace officer and police officer of the District of Columbia, Commonwealth of Virginia, and the State of Maryland. However, an Authority police officer may exercise these powers only on property owned, leased, operated by, or under control of the Authority, and may not exercise these powers on any other property unless:

(a) Engaged in fresh pursuit of a suspected offender;

(b) Specially requested or permitted to do so in a political subdivision by its chief executive officer or its chief police officer; or

(c) Ordered to do so by the Mayor of the District of Columbia, or the Governor of Maryland or Virginia.

56. All other police officers of the signatory parties and of each county, city, town, or other political subdivision of the District of Columbia, Commonwealth of Virginia, and State of Maryland through which the project, or portion thereof, extends shall have the same powers and jurisdiction within the limits of such projects as they have beyond such limits and shall have access to the project at any time for the purpose of exercising such powers and jurisdiction.

57. On or before the last day of September in each year, the Authority shall make an annual report of its activities for the preceding calendar year to the Governors of Maryland and Virginia and the Mayor of the District of Columbia. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or operation of the project. The records, books, and accounts of the Authority shall be subject to examination and inspection by duly authorized representatives of the governing bodies of Maryland, Virginia, and the District of Columbia, and by any bondholder or bondholders at any reasonable time, provided the business of the Authority is not unduly interrupted or interfered with thereby.

58. Any member, agent, or employee of the Authority who contracts with the Authority or is interested, either directly or indirectly, in any contract with the Authority or in the sale of any property, either real or personal, to the

Authority shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 1 year, or both.

59. Any person who uses the project and fails or refuses to pay the toll provided therefor shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 30 days, or both, and in addition thereto the Authority shall have a lien upon the vehicle driven by such person for the amount of such toll and may take and retain possession thereof until the amount of such toll and all charges in connection therewith shall have been paid.

60. When one signatory adopts an amendment or supplement to an existing section of the Compact, that amendment or supplement shall not be immediately effective, and the previously enacted provision or provisions shall remain in effect in each jurisdiction until the amendment or supplement is approved by the other signatories and is consented to by Congress.

(Feb. 28, 1996, D.C. Law 11-96, § 4, 42 DCR 7185.)

**Section references.** — This section is referenced in § 9-1115.01 and § 9-1115.04.

**Prior Codifications.** — 1981 Ed., § 1-2483.

**Legislative history of Law 11-96.** — For

legislative history of D.C. Law 11-96, see Historical and Statutory Notes following § 9-1115.01.

## § 9-1115.04. Compact provisions as law.

The following articles of the Compact set forth in § 9-1115.03 shall be a part of the law of the District of Columbia as in the case of any other act on the effective date of the Compact as described in Article V of Title I: Articles I, II, III, and VIII of Title I; and Articles I through XIII of Title II. Upon termination of the Compact as set forth in § 9-1115.03, the foregoing articles shall be repealed, and any other laws of the District superseded or suspended by virtue of conflict with these articles shall be reactivated without further legislative action.

(Feb. 28, 1996, D.C. Law 11-96, § 5, 42 DCR 7185.)

**Prior Codifications.** — 1981 Ed., § 1-2484.

**Temporary Amendment of Section.** — For temporary (225 day) authority of Mayor to execute Compact, see § 2 of Potomac River Bridges Towing Compact Temporary Act of 1999 (D.C. Law 13-4, May 28, 1999, law notification 46 DCR 5304).

**Emergency legislation.** — For temporary addition of § 1-2485.1 1981 Ed., see § 2 of the Potomac River Bridges Towing Compact Emergency Act of 1999 (D.C. Act 13-16, February 10, 1999, 46 DCR 2349).

For temporary authorization for the District to remove disabled vehicles from any portion of the Potomac River Bridges, see §§ 2-6 of the Potomac River Bridges Towing Compact Emergency Act of 1999 (D.C. Act 13-16, February 10, 1999, 46 DCR 2349).

For temporary (90-day) authorization of continued participation in related compact, see §§ 2 to 6 of the Potomac River Bridges Towing Compact Congressional Review Emergency Act of 1999 (D.C. Act 13-88, June 4, 1999, 46 DCR 5319).

For temporary (90-day) authorization of continued participation in related compact, see §§ 2 to 6 of the Potomac River Bridges Towing Compact Congressional Review Emergency Act of 1999 (D.C. Act 13-222, January 11, 2000, 47 DCR 470).

**Legislative history of Law 11-96.** — For legislative history of D.C. Law 11-96, see Historical and Statutory Notes following § 9-1115.01.

*Subchapter IX. Potomac River Bridges Towing Compact.***§ 9-1117.01. Mayor authorized to enter into Compact; purpose.**

(a) The Mayor is authorized to enter into and execute on behalf of the District a compact with any state or states legally joining the Potomac River Bridges Towing Compact ("Compact").

(b) The parties to this Compact are the District of Columbia, the Commonwealth of Virginia, and the State of Maryland ("Parties").

(c) The purpose of this Compact is to facilitate the prompt and orderly removal of disabled and abandoned vehicles from the bridges by giving all 3 Parties jurisdiction to exercise appropriate authority anywhere on the following bridges which pass through the territory of 2 or more of the jurisdictions: the Woodrow Wilson Memorial Bridge, Rochambeau Memorial Bridge, George Mason Memorial Bridge, Theodore Roosevelt Memorial Bridge, Francis Scott Key Bridge, Chain Bridge, and American Legion Memorial Bridge.

(March 31, 2000, D.C. Law 13-63, § 2, 46 DCR 9217.)

**Temporary Amendment of Section.** — For temporary (225 day) authority of Mayor to execute Compact, see § 2 of Potomac River Bridges Towing Compact Temporary Act of 1999 (D.C. Law 13-4, May 28, 1999, law notification 46 DCR 5304).

**Emergency legislation.** — For temporary (90-day) authorization of the District to remove disabled vehicles from any portion of the Potomac River Bridges, see §§ 2 to 6 of the Potomac River Bridges Towing Compact Emergency Act of 1999 (D.C. Act 13-16, February 10, 1999, 46 DCR 2349).

For temporary (90-day) authorization of continued participation in towing compact, see §§ 2 to 6 of the Potomac River Bridges Towing Compact Congressional Review Emergency Act of 1999 (D.C. Act 13-88, June 4, 1999, 46 DCR 5319).

For temporary (90-day) authorization of continued participation in towing compact, see §§ 2 to 6 of the Potomac River Bridges Towing Compact Congressional Review Emergency Act of 1999 (D.C. Act 13-222, January 11, 2000, 47 DCR 470).

**§ 9-1117.02. State Troopers and local law enforcement officers authority.**

The Parties hereby give one another all necessary power and authority to have their respective state troopers or local law enforcement officers direct traffic and authorize the removal of disabled or abandoned vehicles, trailers, semitrailers or the parts or contents thereof, from any part of the Potomac River Bridges, to the same extent and in the same manner that such troopers and local law enforcement officers may exercise such authority in their own jurisdictions. No Party, acting through its troopers or local law enforcement officers, shall have the authority to direct or authorize the towing or removal of any vehicle or other thing to a destination outside its own jurisdiction, unless the consent of an officer or trooper of the destination jurisdiction has first been obtained.

(March 31, 2000, D.C. Law 13-63, § 3, 46 DCR 9217.)



**Emergency legislation.** — For temporary (90-day) authorization of the District to remove disabled vehicles from any portion of the Potomac River Bridges, see notes following § 9-1117.01.

### § 9-1117.03. Exclusive jurisdiction over vehicles; governing laws and procedures.

All vehicles and their contents towed or removed from the Potomac River bridges pursuant to this Compact shall be subject to the exclusive jurisdiction of the place to which such vehicle and its contents are taken, and the handling and disposition of such vehicle and its contents shall be governed by the laws and procedures of that jurisdiction.

(March 31, 2000, D.C. Law 13-63, § 4, 46 DCR 9217.)

**Emergency legislation.** — For temporary (90-day) authorization of the District to remove disabled vehicles from any portion of the Potomac River Bridges, see notes following § 9-1117.01.

### § 9-1117.04. Compact not creating agency relationship.

Each of the parties shall act solely on its own authority within the jurisdiction granted. This Compact shall not be construed as creating any agency relationship between the Parties.

(March 31, 2000, D.C. Law 13-63, § 5, 46 DCR 9217.)

**Emergency legislation.** — For temporary (90-day) authorization of the District to remove disabled vehicles from any portion of the Potomac River Bridges, see notes following § 9-1117.01.

### § 9-1117.05. Withdrawal from Compact.

The Mayor of the District of Columbia, the Governor of the Commonwealth of Virginia, or the State of Maryland, may withdraw from this Compact at any time upon 30 days written notice to the other Parties.

(March 31, 2000, D.C. Law 13-63, § 6, 46 DCR 9217.)

**Emergency legislation.** — For temporary (90-day) authorization of the District to remove disabled vehicles from any portion of the Potomac River Bridges, see notes following § 9-1117.01.

## SUBTITLE IV. MISCELLANEOUS.

### CHAPTER 11A. BUS SHELTERS.

Sec.

9-1151. Finding and purpose.

9-1152. The franchise agreement.

9-1153. Location of bus shelters.

9-1154. Advertising.

9-1155. Compensation.

9-1156. Insurance and bonds.

Sec.

9-1157. Termination of franchise agreement.

9-1158. Selection of the franchisee.

9-1159. Relation to other provisions of law.

9-1160. Regulations.

9-1161. Severability.

#### § 9-1151. Finding and purpose.

(a) The Council of the District of Columbia finds that:

(1) There is a shortage of bus shelters in the District of Columbia;

(2) There are over 3,500 bus stops in the District of Columbia;

(3) The District of Columbia Department of Transportation estimates that it would be appropriate to place bus shelters at at least 1,500 of the 3,500 bus stops with advertisements on 750 of the bus shelters;

(4) The Washington Metropolitan Area Transit Authority currently proposes to install only 366 bus shelters in the District of Columbia;

(5) Additional bus shelters will enhance the safety and convenience of bus transportation throughout the District of Columbia;

(6) It currently costs approximately \$2,800 to purchase and install a bus shelter in the District of Columbia (the United States Department of Transportation has been paying 80% of this amount, while the Washington Metropolitan Area Transit Authority is responsible for 20%);

(7) The District of Columbia government does not have the funds to purchase and install the number of bus shelters which are necessary to meet the needs of the bus-riding public in the District of Columbia; and

(8) The awarding of a franchise agreement, granting the right to erect and maintain bus shelters containing advertisement display panels along public streets, can provide the needed bus shelters at no cost to the District of Columbia and will further afford the District of Columbia additional revenues.

(b) The purposes of this chapter are to:

(1) Provide the District of Columbia with bus shelters along its bus transportation routes;

(2) Install and maintain bus shelters in the District of Columbia through the awarding of a franchise agreement;

(3) Permit advertisement to be displayed on some of the bus shelters; and

(4) Generate revenues for the District of Columbia.

(c) Nothing in this chapter shall be construed as comprising the franchise agreement.

(May 10, 1980, D.C. Law 3-67, § 2, 27 DCR 1266.)

**Legislative history of Law 3-67.** — Law 3-67 was introduced in the Council and assigned Bill No. 3-145. The Bill was adopted on first and second readings on February 5, 1980,

and February 19, 1980, respectively. Signed by the Mayor on March 17, 1980, it was assigned Act No. 3-166 and transmitted to both Houses of Congress for its review.

**§ 9-1152. The franchise agreement.**

(a) The Mayor is directed, within 1 year of May 10, 1980, and based upon an evaluation of the proposals received following an open request for proposals, to enter into a franchise agreement for the installation and maintenance of bus shelters on public space of the District of Columbia.

(b) The Mayor shall permit the franchisee to place advertisements on no more than 90% of the bus shelters installed pursuant to the franchise agreement.

(c) The franchise agreement shall, for its term, be the exclusive agreement in the District of Columbia for private installation and maintenance of bus shelters in public spaces which display commercial advertisements.

(d) The franchise agreement shall be for a period of 20 years, to expire on December 31, 2025. After December 31, 2025, the term shall be 10 years. One year prior to the termination of the franchise agreement each party shall notify the other, in writing, as to whether or not it wants to renegotiate the franchise agreement for an additional period of time. Absent satisfactory renegotiation for a renewal period, the Mayor is directed, based upon an evaluation of the proposals received following an open request for proposals, to enter into a new franchise agreement for the installation and maintenance of bus shelters on public space of the District of Columbia. The terms of the new franchise agreement shall not be inconsistent with the provisions of this chapter.

(e) Under the terms of the franchise agreement the franchisee shall be responsible for:

(1) All of the costs and expenses for the bus shelter design approved by the Mayor;

(2) The construction, maintenance, and lighting of the bus shelters and repair of all structures including sidewalks, curbs, streets or utilities which shall in any way be disturbed by the installation of the bus shelters;

(3) The costs associated with moving bus shelters maintained by the Washington Metropolitan Area Transit Authority, which are located on sites which have been approved for bus shelters with advertisement displayed on them; and

(4) The costs associated with changing, within 3 months, the location of any bus shelters which are no longer needed where originally placed due to changes in bus routes or other factors.

(f) The franchise agreement shall establish:

(1) The minimum number of bus shelters, both with and without advertisement, which are to be installed in the District of Columbia pursuant to the franchise agreement;

(2) The specific location of the first 100 of the bus shelters referred to in paragraph (1) of this subsection and approximate locations for the second 100 bus shelters;

(3) The order for installing the first 200 bus shelters;

(4) That subsequent to signing the franchise agreement, the Mayor and the franchisee shall enter into an agreement specifying the locations and the order for installing the remaining bus shelters to be installed or moved



pursuant to the franchise agreement. This agreement may be amended as necessary to include additional bus shelter locations;

(5) The design of the bus shelters; and

(6) Standards which the franchisee is to follow for the minimum maintenance and replacement of the bus shelters installed pursuant to the franchise agreement.

(g) The Mayor shall include in the franchise agreement those provisions which are so specified in this chapter and any other provisions which the Mayor deems appropriate to carry out the purposes of this chapter.

(h) Upon the expiration of the franchise agreement, or upon the expiration of the renewal term provided for herein, or if the franchise is terminated according to the provisions of § 9-1157, whichever shall occur first, the bus shelters installed pursuant to the franchise agreement shall become the property of the District of Columbia without cost to the District of Columbia.

(May 10, 1980, D.C. Law 3-67, § 3, 27 DCR 1266; June 8, 2006, D.C. Law 16-110, § 2, 53 DCR 2531.)

**Effect of amendments.** — D.C. Law 16-110, in subsec. (d), substituted “for a period of 20 years, to expire on December 31, 2025. After December 31, 2025, the term shall be 10 years.” for “for a period of 10 years.”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of District of Columbia Bus Shelter Temporary Amendment Act of 2005 (D.C. Law 16-39, December 10, 2005, law notification 52 DCR 11035).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of District of Columbia Bus Shelter Emergency Amendment Act of 2005 (D.C. Act 16-141, July 26, 2005, 52 DCR ).

For temporary (90 day) amendment of sec-

tion, see § 2 of District of Columbia Bus Shelter Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-187, October 28, 2005, 52 DCR 10015).

**Legislative history of Law 16-110.** — Law 16-110, the “District of Columbia Bus Shelter Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-402 which was referred to the Committee on Public Works and Environment. The Bill was adopted on first and second readings on February 7, 2006, and March 7, 2006, respectively. Signed by the Mayor on March 23, 2006, it was assigned Act No. 16-312 and transmitted to both Houses of Congress for its review. D.C. Law 16-110 became effective on June 8, 2006.

## § 9-1153. Location of bus shelters.

(a)(1) Prior to the issuance of a Request for Proposals for the franchise agreement, and bases on consultation with the Council of the District of Columbia, the Mayor shall establish:

(A) Locations for the installation of 90 bus shelters with advertisements, 10 bus shelters without advertisements, and for the bus shelters owned by the Washington Metropolitan Area Transit Authority which must be moved to permit the franchisee to install the 90 new bus shelters with advertisements; and

(B) The sequence in which the bus shelters are to be installed.

(2) The selection of locations and the sequence for installation of bus shelters shall take into account, first, the various needs of the different areas of the District of Columbia for bus shelters, and second, the advertising market potential in these areas.

(b) In establishing the locations for the bus shelters the Mayor shall consult with the District of Columbia Department of Transportation, the Public Space

Committee, the Commission of Fine Arts, the Pennsylvania Avenue Development Corporation, and the affected advisory Neighborhood Commissions, and any other groups which the Mayor believes appropriate.

(c) The Mayor shall consult with the Commission of Fine Arts on the design and location of all bus shelters located within the monuments area as defined in § 6-611.01.

(May 10, 1980, D.C. Law 3-67, § 4, 27 DCR 1266.)

### § 9-1154. Advertising.

(a) The franchisee is authorized to sell commercial advertisement space on no more than 2 sides of a single end of the bus shelters which have been designated by the Mayor to contain advertisement. The end of the bus shelter with advertisement shall be opposite the end nearest the approaching buses. Ten percent of the total available advertisement space shall be made available for public service announcements and advertisements regarding community, art, cultural, educational and similar events. This shall include public service notices which the District of Columbia government may want to post. The amount of such public service announcements and advertisements shall be determined by the total number of hours the advertisement is displayed in a calendar year.

(b) The Mayor shall establish procedures for the review of proposed advertisements.

(c) The Mayor shall approve or disapprove any proposed advertisement submitted within 10 working days of its receipt, setting forth in writing the reason or reasons for any disapproval. Any proposed advertisement not disapproved by the Mayor within 10 working days of its receipt shall be deemed to have been approved.

(d) The franchisee shall remove any advertisement which the Mayor determines to be deceptive, misleading, untruthful, obscene, or in violation of Chapter 39 of Title 28 within 15 days from receipt of a request from the Mayor.

(e) No more than 50% of the advertisements posted shall relate to tobacco or alcoholic products. This amount shall be determined by the total number of hours the advertisement is displayed in a calendar year.

(f) At least 10 of the bus shelters to be installed by the franchisee shall not have advertisements on them.

(g) No bus shelters with advertisements shall be permitted in public spaces which are immediately adjacent to residential districts of the City zoned R-1, R-2, R-3, or R-4 by the Zoning Commission.

(May 10, 1980, D.C. Law 3-67, § 5, 27 DCR 1266.)

### § 9-1155. Compensation.

(a)(1) The franchise agreement shall establish the compensation which the District of Columbia government shall receive under the franchise agreement. The franchisee shall pay to the District of Columbia, on a quarterly basis:

(A) A fee of 10% of its gross advertisement receipts for the first 5 year period; and

(B) A fee of 15% of its gross advertisement receipts for the second 5 year period.

(2) Gross advertisement receipts shall be defined as payments received by the franchisee, its agents or designees, less commission paid to the advertisement brokerage agencies involved, in connection with the display of advertising material on the bus shelters. The Mayor may require the franchisee to maintain specific records and accounts which the Mayor shall have the right to inspect to ascertain the correctness of amounts paid to the District of Columbia.

(b) Notwithstanding the above provisions, the franchisee will guarantee to the District of Columbia government a minimum payment of \$300 per year per bus shelter for the first 5 years of the franchise agreement and \$450 per year per bus shelter for the second 5 years of the franchise agreement. The Mayor may establish the appropriate minimum payment levels to be included in any franchise effective after the 10 year period.

(c) As further security for performance by the franchisee of its obligations, the franchisee shall deposit into an escrow account, every 3 months, beginning 6 months after the effective date of the franchise, a sum equal to  $\frac{1}{10}\%$  of its gross revenues until said fund reaches a total of \$100,000. This fund shall be maintained at such depositories designated by the Mayor pursuant to the District of Columbia Depository Act of 1977, effective October 26, 1977 (D.C. Law 2-32 [repealed]) and shall bear interest to the franchisee. The fund shall be used to reimburse the District of Columbia for any financial loss incurred by reason of a default by the franchisee, or for the cost of moving bus shelters if the franchisee does not move them when required to do so. Upon the expiration of the term or the renewed term, the unobligated sum on deposit shall be returned to the franchisee.

(May 10, 1980, D.C. Law 3-67, § 6, 27 DCR 1266.)

## § 9-1156. Insurance and bonds.

(a) Within 30 days of the effective date of the franchise agreement, the franchisee shall file with the District of Columbia and shall maintain throughout the life of the franchise agreement, liability insurance policies and performance bonds acceptable to the Mayor in the minimum amounts as follows:

(1) For bodily injury, including death,

(A) \$250,000 for any one person, and

(B) \$1,000,000 for any one accident;

(2) For property damage, \$100,000 per accident; and

(3) For performance of maintenance and repairs, and other provisions of the franchise agreement, \$250 per bus shelter, up to a maximum of \$100,000 for all bus shelters.

(b) The franchisee shall assure any legal responsibility for, and shall hold the District of Columbia and/or the Washington Metropolitan Area Transit



Authority harmless from, any liability that arises because of injury to persons or property, including sidewalks, curbs, streets and structures by reason of the construction, operation, or maintenance of the bus shelters installed or moved pursuant to the franchise agreement.

(May 10, 1980, D.C. Law 3-67, § 7, 27 DCR 1266.)

### **§ 9-1157. Termination of franchise agreement.**

(a) The Mayor shall notify the franchisee in writing of any violations of the franchise agreement and establish a compliance schedule for correcting the violations. In the event that the compliance schedule is not met, the Mayor may terminate the franchise agreement after 60 days written notice to the franchisee of his intent to terminate the franchise agreement, setting forth the reasons for the termination.

(b) In the event of bankruptcy of the franchisee the Mayor shall terminate the franchise agreement, providing the franchisee with written notice of his action.

(c) In addition to default on the franchise agreement or bankruptcy of the franchisee, the Mayor may include in the franchise agreement, for the best interest of the District of Columbia, any other conditions and terms which shall constitute the basis for cancellation.

(May 10, 1980, D.C. Law 3-67, § 8, 27 DCR 1266.)

**Section references.** — This section is referenced in § 9-1152.

### **§ 9-1158. Selection of the franchisee.**

(a) In awarding the franchise agreement, the Mayor shall give priority to proposals submitted by entities which provide written evidence that they meet the following criteria:

(1) That no less than 50% of the equity interest holders of the entity have resided in the District of Columbia for at least 3 years;

(2) That at least 50% of the voting shares or equity interest of the entity is held by individuals who are members of a minority group or organization operated for the purpose of aiding such persons as defined in subchapter VIII of Chapter 2 of Title 2; and

(3) That the entity is capable of satisfying the general standards for responsible prospective contractors as set forth in the Federal Procurement Regulations (41 C.F.R. 1-1.1203-1).

(b) The proposals submitted pursuant to an open request for proposals shall be evaluated by the Mayor on a scale of 100 points. An additional 10 points shall be given proposals which meet the criteria in subsection (a)(1) of this section and an additional 10 points shall be given proposals, which meet the criteria in subsection (a)(2) of this section.

(May 10, 1980, D.C. Law 3-67, § 9, 27 DCR 1266.)

## § 9-1159. Relation to other provisions of law.

The provisions of §§ 1-303.21 and 1-303.23, and rules issued pursuant to those sections, shall not pertain to the advertisement resulting from the franchise agreement.

(May 10, 1980, D.C. Law 3-67, § 10, 27 DCR 1266; Apr. 27, 2013, D.C. Law 19-289, § 5, 60 DCR 2328.)

**Effect of amendments.** — The 2013 amendment by D.C. Law 19-289 rewrote the section.

**Temporary legislation.** — Section 5 of D.C. Law 19-181 repealed this section.

Section 8 of D.C. Law 19-181 provided that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Section 9 of D.C. Law 19-181 provided that sections 3, 4, 5, 6, and 7 of the act shall apply upon the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act.

Section 11(b) of D.C. Law 19-181 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 5 of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary repeal of section, see § 5 of the Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-499, October 26, 2012, 59 DCR 12749), applicable after the Mayor's issuance of a compre-

hensive final rulemaking governing signs on public space and private property, and with the condition that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

**Legislative history of Law 19-289.** — Law 19-289, the "Sign Regulation Authorization Amendment of 2012," was introduced in Council and assigned Bill No. 19-819. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 29, 2013, it was assigned Act No. 19-656 and transmitted to Congress for its review. D.C. Law 19-289 became effective on Apr. 27, 2013.

**Editor's notes.** — Section 9 of D.C. Law 19-289 provided: "Any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded."

Section 10 of D.C. Law 19-289 provided: "Applicability. Sections 3, 4, 5, 6, 7, and 8 shall not apply until the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2."

## § 9-1160. Regulations.

The Mayor is authorized to promulgate regulations to carry out the purposes of this chapter.

(May 10, 1980, D.C. Law 3-67, § 11, 27 DCR 1266.)

## § 9-1161. Severability.

If a provision of this chapter or its application to a particular person or circumstance is held invalid, such invalidity does not affect other provisions or applications.

(May 10, 1980, D.C. Law 3-67, § 12, 27 DCR 1266.)

## CHAPTER 11B. STREETCARS 2010.

Sec.

9-1171. Aerial wires for streetcars.

9-1172. Wire-free zones.

Sec.

9-1173. Aerial wire planning requirements.

9-1174. Comprehensive assessment.

## § 9-1171. Aerial wires for streetcars.

(a) Notwithstanding any other law, the Mayor is authorized to install aerial wires in accordance with this chapter for the sole purpose of powering or supporting wires that power streetcar transit where aerial wire power is necessary or, in the Mayor's determination, is more feasible than other currently available forms of propulsion.

(b) The installation of aerial wires authorized by this section is limited to the H Street/Benning Road streetcar transit line, between the intersection of North Capitol Street and H Street, N.E. on the west and the Anacostia River on the east until the requirements of § 9-1173 are met.

(Mar. 31, 2011, D.C. Law 18-339, § 2, 58 DCR 618.)

**Section references.** — This section is referenced in § 9-1173.

**Temporary Addition of Section.** — Sections 2 and 3 of D.C. Law 18-258 added a section to read as follows:

“Sec. 2. Aerial wires for streetcars.

“(a) Notwithstanding any other law, the Mayor is authorized to install aerial wires in accordance with this act for the sole purpose of powering or supporting wires that power streetcar transit where aerial wire power is necessary or, in the Mayor's determination, is more feasible than other currently available forms of propulsion.

“(b) The installation of aerial wires authorized by this section is limited to the H Street/Benning Road streetcar transit line, between the intersection of North Capitol Street and H Street, N.E., on the west and the Anacostia River on the east until the requirements of section 4 are met.

**Emergency legislation.** — For temporary (90 day) addition, see § 2 of Transportation Infrastructure Emergency Amendment Act of 2010 (D.C. Act 18-486, July 19, 2010, 57 DCR 7164).

For temporary (90 day) addition, see § 2 of Transportation Infrastructure Congressional Review Emergency Amendment Act of 2010 (D.C. Act 18-583, October 19, 2010, 57 DCR 10129).

**Legislative history of Law 18-339.** — Law 18-339, the “Transportation Infrastructure Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-823, which was referred to the Committee on Public Works and Transportation. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 12, 2011, it was assigned Act No. 18-684 and transmitted to both Houses of Congress for its review. D.C. Law 18-339 became effective on March 31, 2011.

## § 9-1172. Wire-free zones.

No aerial wires for streetcar transit shall be installed in the following areas:

(1) Along the National Mall in the cross-axis area that extends from the U.S. Capitol on the east to the Lincoln Memorial on the west and from the White House on the north to the Jefferson Memorial on the south, including federal properties abutting this cross-axis area; and

(2) Along Pennsylvania Avenue between the Capitol and the White House.

(Mar. 31, 2011, D.C. Law 18-339, § 3, 58 DCR 618.)



**Temporary Addition of Section.** — Section 3 of D.C. Law 18-258 added a section to read as follows:

“Sec. 3. Wire-free zones.

“No aerial wires for streetcar transit shall be installed in the following areas:

“(1) Along the National Mall in the cross-axis area that extends from the U.S. Capitol on the east to the Lincoln Memorial on the west and from the White House on the north to the Jefferson Memorial on the south, including federal properties abutting this cross-axis area; and

“(2) Along Pennsylvania Avenue between the Capitol and the White House.”

Section 7(b) of D.C. Law 18-258 provided that

the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 3 of Transportation Infrastructure Emergency Amendment Act of 2010 (D.C. Act 18-486, July 19, 2010, 57 DCR 7164).

For temporary (90 day) addition, see § 3 of Transportation Infrastructure Congressional Review Emergency Amendment Act of 2010 (D.C. Act 18-583, October 19, 2010, 57 DCR 10129).

**Legislative history of Law 18-339.** — For history of Law 18-339, see notes under § 9-1171.

## § 9-1173. Aerial wire planning requirements.

(a) Prior to the expansion or construction of aerial wire-powered streetcar transit beyond the H Street/Benning Road line, authorized pursuant to § 9-1171, the Mayor shall develop a plan for the use of aerial wires for each phase or extension of the streetcar transit system and submit the plan to the Council, along with a written report that includes:

(1) An evaluation of the impact of aerial wires on federal property, including federal buildings and infrastructure; commemorative works of art, as that term is defined in 40 U.S.C. § 8902(1); congressionally mandated historic districts; historic properties as defined in section 301(5) of the National Historic Preservation Act, approved December 12, 1980 (94 Stat. 3001; 16 U.S.C. § 470w(5)); and the vistas, streets, avenues, and public reservations identified as contributing elements of the L'Enfant Plan of the City of Washington.

(2) The possible effect, including the visual effect, of aerial wires on the character of any historic district, including comments, if any, from the State Historic Preservation Officer;

(3) All applicable review requirements pursuant to District and federal law;

(4) Designation of any additional wire-free zones within the proposed phase or extension, as identified in coordination with impacted agencies and authorities; and

(5) The feasibility of using non-aerial power as a means of propulsion for the phase or extension.

(b) The Mayor shall submit each proposed plan to the Council for a 45-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. If the Council does not approve or disapprove of a proposed plan, by resolution, within the 45-day review period, the plan shall be deemed disapproved.

(c) The Council shall hold a hearing on each plan before the plan shall be approved or disapproved.

(Mar. 31, 2011, D.C. Law 18-339, § 4, 58 DCR 618.)

**Section references.** — This section is referenced in § 9-1171.

**Emergency legislation.** — For temporary (90 day) addition, see § 4 of Transportation Infrastructure Congressional Review Emer-

gency Amendment Act of 2010 (D.C. Act 18-583, October 19, 2010, 57 DCR 10129).

**Legislative history of Law 18-339.** — For history of Law 18-339, see notes under § 9-1171.

## § 9-1174. Comprehensive assessment.

(a) By January 1, 2014, and by that date every 3 years thereafter, the Mayor shall submit to the Council an assessment on the:

- (1) Advances in propulsion technology;
- (2) Feasibility, including cost, of converting to non-aerial motive power where aerial wiring has been installed;
- (3) Feasibility, including cost, of using non-aerial motive power on such segments of the streetcar system where construction has yet to be initiated; and

(4) Any recommended amendments to this chapter, including a potential sunset date.

(b) The Council shall hold a public hearing on this report.

(Mar. 31, 2011, D.C. Law 18-339, § 5, 58 DCR 618.)

**Emergency legislation.** — For temporary (90 day) addition, see § 5 of Transportation Infrastructure Congressional Review Emergency Amendment Act of 2010 (D.C. Act 18-583, October 19, 2010, 57 DCR 10129).

**Legislative history of Law 18-339.** — For history of Law 18-339, see notes under § 9-1171.

## TRANSPORTATION SYSTEMS

### CHAPTER 12. MISCELLANEOUS PROVISIONS.

#### *Subchapter I. General*

Sec.

- 9-1201.01. Jurisdiction over MacArthur Boulevard.
- 9-1201.02. Railroads prohibited on certain streets.
- 9-1201.03. Further laying of street railroads prohibited.
- 9-1201.04. Removal of paving stones; permit required; obstruction on streets.
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- 9-1203.02. Sale or lease of track connection with Navy Yard authorized.
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- 9-1203.05. Authority of Mayor under § 9-1201.15 not affected.
- 9-1203.06. Condemnation proceedings by railroad company.
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#### *Subchapter III. Railroad Track Extensions — New York Ave*

- 9-1205.01. Construction of switch connections — Authorized.

Sec.

- 9-1205.02. Construction of switch connections — Plans to be approved by Mayor.
- 9-1205.03. Construction of switch connections — Grade crossings.
- 9-1205.04. Construction of switch connections — Authority of Mayor not abridged.
- 9-1205.05. Right to amend, alter or repeal this subchapter reserved.

#### *Subchapter IV. Electrification of Railroad Lines*

- 9-1207.01. Electrification of existing steam railroad lines.
- 9-1207.02. Submarine cables at drawbridge openings.
- 9-1207.03. Construction of electrical conduit systems authorized.
- 9-1207.04. Jurisdiction of Department of Army, Mayor, and Interstate Commerce Commission not limited.
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- 9-1208.01. Streetcar plan.

#### *Subchapter V. Employment for Purposes of Road Work*

- 9-1209.01. Employment of temporary special and technical employees.
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#### *Subchapter VI. Helicopter Landing Pads*

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- 9-1213.01. Construction or maintenance within fire limits.
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- 9-1213.03. Notice to remove; service.
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9-1215.06. Marker locations.	
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	Condemnation of Materials for Public Roads
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Cost of Street Extensions	PART B
9-1217.01. Cost of street extension assessed as benefits; assessments for parkways.	Repealed Provisions
	9-1219.11 to 9-1219.41. [Repealed].

### *Subchapter I. General.*

## § 9-1201.01. Jurisdiction over MacArthur Boulevard.

Jurisdiction and control over MacArthur Boulevard for its full width in the District of Columbia between Foxhall Road and the District line, excepting a strip 19 feet wide within the lines of said road, the center of which is coincident with the center of the water supply conduit, is hereby transferred from the Secretary of the Army to the Council of the District of Columbia, and property abutting thereon shall be subject to any and all lawful assessments which may be levied by the said Council for public improvements, the same as other private property in the District of Columbia; provided, that all municipal laws and regulations shall apply to the entire width of the said road in the District of Columbia in the same degree that they apply to other streets and highways in the said District.

(May 22, 1926, 44 Stat. 627, ch. 372; Mar. 4, 1942, 56 Stat. 123, ch. 129.)

**Prior Codifications.** — 1981 Ed., § 7-1401. 1973 Ed., § 7-1201.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(172) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-1201.02. Railroads prohibited on certain streets.

All railroads are prohibited on the I Street and K Street fronts of Farragut, Scott, and Franklin Squares.

(R.S., D.C., § 223.)

**Prior Codifications.** — 1981 Ed., § 7-1402. 1973 Ed., § 7-1202.

**§ 9-1201.03. Further laying of street railroads prohibited.**

No further street railroads shall be laid down in the City of Washington without the consent of Congress.

(R.S., D.C., § 224.)

**Prior Codifications.** — 1981 Ed., § 7-1403. 1973 Ed., § 7-1203.

**§ 9-1201.04. Removal of paving stones; permit required; obstruction on streets.**

Whenever any person desires to remove the paving stones, or to displace any other work done by the authority of the United States, for the purpose of laying gas pipes, or for any other purpose, it shall be the duty of such person to obtain a written permit from the Director of the National Park Service, and such person shall oblige themselves to replace the said work to the satisfaction of said officer, and within such time as he may prescribe. If any person shall place any obstruction on the streets, avenues, or sidewalks, so improved by the United States, such person shall pay the costs of removing the same, and shall be subject to a penalty of \$10, to be recovered as other debts are recovered in said District, for each and every day the obstruction may remain after the Director of the National Park Service shall have given notice for its removal.

(R.S., D.C., §§ 228, 229; Feb. 26, 1925, 43 Stat. 983, ch. 339, § 3.)

**Prior Codifications.** — 1981 Ed., § 7-1404. 1973 Ed., § 7-1204.

**§ 9-1201.05. Denomination of streets as “business streets”.**

The Council of the District of Columbia is authorized and directed to denominate portions of streets in the District of Columbia as “business streets” and to authorize the use, on such portions of streets, for business purposes by abutting property owners, under such general regulations as said Council may prescribe, of so much of the sidewalk and parking as may not be needed, in the judgment of said Council, by the general public, under the following conditions, namely:

(1) Wherein a portion of a street not already denominated a business street a majority of a frontage not less than 3 blocks in length is occupied and used for business purposes; and

(2) Where a portion of a street has already been denominated a business street, and there exists adjoining such portion a block or more whose frontage is occupied and used for business purposes.

(Feb. 2, 1904, 33 Stat. 10, ch. 89.)

**Cross references.** — Highway plans, jurisdiction of mayor over roads and bridges, see § 9-101.02.

Regulation of traffic, parking, see § 50-2201.03.  
Regulations necessary for the protection of

lives, limbs, health, comfort, and quiet, see § 1-303.03.

Rental and utilization of public space, see § 10-1101.01 et seq.

**Prior Codifications.** — 1981 Ed., § 7-1405. 1973 Ed., § 7-1205.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(173) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### In general.

Act Jan. 26, 1887 (24 Stat. 368) authorizing the commissioners of the District of Columbia to make reasonable police regulations to locate places where licensed vendors shall stand, and governing their conduct upon the streets in relation to such business, did not empower the commissioners to prohibit street sales by either licensed or unlicensed vendors. *Crane v. District of Columbia*, 289 F. 557, 1923 U.S. App. LEXIS 2000 (1923).

Joint Resolution Feb. 26, 1892 (D.C. Code

1929, T. 20, § 34) limiting the power of the commissioners of the District of Columbia to such reasonable and usual police regulations as they may deem necessary for the protection of the lives, limb, health, comfort, and quiet of persons within the District, did not empower the commissioners to make a regulation prohibiting sales of articles by vendors on streets and public places, unless the articles themselves would endanger, disturb, annoy, or incommode the public. *Crane v. District of Columbia*, 289 F. 557, 1923 U.S. App. LEXIS 2000 (1923).

## § 9-1201.06. Portion of streets may be set aside as parks.

The proper authorities of the District are authorized to set apart from time to time, as parks, to be adorned with shade trees, walks, and inclosed with curbstones, not exceeding one-half the width of any and all avenues and streets in the said City of Washington, except Pennsylvania Avenue, leaving a roadway of not less than 35 feet in width in the center of said avenues and streets or 2 such roadways on each side of the park in the center of the same; but such inclosures shall not be used for private purposes.

(R.S., D.C., § 225; Mar. 3, 1881, 21 Stat. 462, ch. 134.)

**Prior Codifications.** — 1981 Ed., § 7-1406. 1973 Ed., § 7-1206.

## § 9-1201.07. Removal of obstructions from streets.

It shall be the duty of the Director of the National Park Service to cause obstructions of every kind to be removed from such streets, avenues, and sidewalks in the City of Washington as have been, or may be, improved in whole or in part by the United States, and to keep the same, at all times, free from obstructions. For the purpose of carrying out the provisions of this section, the Director of the National Park Service shall have power to institute suits in any court having competent jurisdiction, and it shall be the duty of the United States Attorney for the District to prosecute the same.



(R.S., D.C., §§ 226, 227; Feb. 26, 1925, 43 Stat. 983, ch. 339, § 3.)

**Cross references.** — Highway plans, jurisdiction of mayor over roads and bridges, see § 9-101.02.

**Prior Codifications.** — 1981 Ed., § 7-1407. 1973 Ed., § 7-1207.

#### CASE NOTES

**In general.**

District of Columbia has primary responsibility for maintaining streets and sidewalks in reasonably safe condition, regardless of who owns the fee in such streets and sidewalks, in absence of special circumstances such as accu-

mulation of snow or ice or improvement of the way in question by the United States. D.C. Code §§ 7-102, 7-802, 7-803, 7-1207, 7-1208. *Conner v. United States*, 309 F. Supp. 446, 1970 U.S. Dist. LEXIS 12987 (D.D.C1970).

### § 9-1201.08. Penalty for failure to replace paving stones.

If any person removing the paving stones or other work done by the authority of the United States shall fail to replace the same to the satisfaction of the Director of the National Park Service, within the time prescribed by him, he shall be subject to a penalty of \$25 for each and every failure, and shall pay the costs of replacing the same, the whole to be recovered before any court in said District having competent jurisdiction.

(R.S., D.C., § 230.)

**Prior Codifications.** — 1981 Ed., § 7-1408. 1973 Ed., § 7-1208.

#### CASE NOTES

**In general.**

District of Columbia has primary responsibility for maintaining streets and sidewalks in reasonably safe condition, regardless of who owns the fee in such streets and sidewalks, in absence of special circumstances such as accu-

mulation of snow or ice or improvement of the way in question by the United States. D.C. Code §§ 7-102, 7-802, 7-803, 7-1207, 7-1208. *Conner v. United States*, 309 F. Supp. 446, 1970 U.S. Dist. LEXIS 12987 (D.D.C1970).

### § 9-1201.09. Improper appropriation or occupation of streets.

The Secretary of the Interior is directed to prevent the improper appropriation or occupation of any of the public streets, avenues, squares, or reservations in the City of Washington, belonging to the United States, and to reclaim the same if unlawfully appropriated; and particularly to prevent the erection of any permanent building upon any property reserved to or for the use of the United States, unless plainly authorized by act of Congress, and to report to Congress at the commencement of each session his proceedings in the premises, together with a full statement of all such property, and how, and by what authority, the same is occupied or claimed. Nothing herein contained shall be construed to interfere with the temporary and proper occupation of any portion of such property, by lawful authority, for the legitimate purposes of the United States.

(R.S., § 1818.)

**Prior Codifications.** — 1981 Ed., § 7-1409. 1973 Ed., § 7-1209.

### § 9-1201.10. Railroad sidings south of Virginia and Maryland Avenues authorized.

It shall be the duty of the Council of the District of Columbia, and it is hereby authorized and empowered, whenever it considers it a public benefit, to grant the Baltimore and Potomac Railroad Company permission to lay, maintain, and use sidetracks and sidings from the main line or lines of said railroad into any real estate in the said city abutting on the streets or avenues on which such line of such company is or may be situated, east of Four-and-a-half Street and south of Virginia and Maryland Avenues, which may be used or occupied for manufacturing, commercial, or other business purposes by parties desiring the use of such facilities. Such sidetracks or sidings shall be laid and maintained under the direction of the Mayor of the District of Columbia and in such manner as shall least obstruct the use of the public streets for ordinary purposes: Provided, that the right to revoke the use of said sidetracks or sidings is reserved to Congress.

(Jan. 19, 1891, 26 Stat. 719, ch. 76, § 2.)

**Prior Codifications.** — 1981 Ed., § 7-1410. 1973 Ed., § 7-1210.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(174) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-1201.11. Railroad sidings into lots for business uses authorized.

It shall be lawful for the Baltimore and Potomac Railroad Company to extend and construct, from time to time, branch tracks or sidings from the lines of railroad authorized hereunder, into any lot or lots adjacent to any street or avenue along which said lines of railroad are located, upon the application of the owner or owners of such lot or lots, to enable such owners to use their property for the purpose of coal, wood, or lumber yards, manufactories, warehouses, and other business enterprises; provided, however, that no grade crossing of any street or avenue within the City of Washington shall be thereby created, but such connecting tracks shall be carried across such street or avenue in such manner as not to obstruct the free use thereof, and the plans of such connecting tracks shall in every case be first filed with and approved by the Mayor of the District of Columbia.

(Feb. 12, 1901, 31 Stat. 772, ch. 353, § 10.)

**Prior Codifications.** — 1981 Ed., § 7-1411. 1973 Ed., § 7-1211.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-1201.12. Railroad tracks and additional stations authorized.

In addition to the main or terminal station or depot, the Baltimore and Ohio Railroad Company, or the Washington Terminal Company may from time to time construct, establish, and maintain such additional stations or depots, for passengers or freight, as the company may deem necessary or useful in the conduct of its business, or for the accommodation of the freight and passenger traffic passing over the lines of railroad authorized by this Act, at such point or points within said District as the Council of the District of Columbia shall approve; provided, that no such station or depot within the city limits shall be located east of 2nd Street east, and west of North Capitol Street, and it shall be lawful for either of said companies to acquire, by gift, purchase, or condemnation, any land adjacent to any street or avenue along or upon which the lines of railroad and works hereby authorized shall be located, and hold and improve the same in such manner as it may deem necessary or beneficial to accommodate or promote the traffic on said railroad, and to extend and construct tracks of railroad into and upon any lands so acquired and connect the same with the tracks on such adjacent street or avenue; provided, however, that no grade crossing of any street or avenue within the City of Washington shall be thereby created, but such connecting tracks shall be elevated and carried over the portion of such street or avenue crossed in such manner as not to obstruct the free use thereof, and the plans of such connecting tracks and elevated structure shall in every case be first filed with and approved by the Council of the District of Columbia. And it shall be lawful for said companies, or either of them, subject to the same conditions and restrictions, to extend and construct, from time to time, branch tracks or sidings from the lines of railroad authorized hereunder into any lot or lots adjacent to any street or avenue along which said lines of railroad are located, upon the application of the owner or owners of such lot or lots, to enable such owners to use their property for the purposes of coal, wood, or lumber yards, manufactories, warehouses, and other business enterprises.

(Feb. 12, 1901, 31 Stat. 777, ch. 354, § 5.)

**Prior Codifications.** — 1981 Ed., § 7-1412. 1973 Ed., § 7-1212.

**References in text.** — “This Act,” referred

to in the first sentence of this section, means the Act of February 12, 1901, 31 Stat. 777, ch. 354.



**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(175) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The

District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### Compensation.

U.S. Const. Amend. 5, does not require that an owner of property, no part of which was actually appropriated, but which lies near a railway tunnel maintained under Acts Feb. 12, 1901 (31 Stat. 774), and Feb. 28, 1903 (32 Stat. 909), on property acquired by condemnation, be compensated for damage through smoke and dirt and vibration incident to the operation of the railroad. *Richards v. Washington Terminal Co.*, 34 S.Ct. 654, 1914 U.S. LEXIS 1221 (U.S. Dist. Col. 1914).

An owner of property in the neighborhood of railroad tracks and a tunnel constructed under authority of acts Feb. 12, 1901 (31 Stat. 774), and Feb. 28, 1903 (32 Stat. 909), is entitled

under Const. U.S. Amend. 5, to compensation for damages from gas and smoke emitted from locomotives in the tunnel and forced out of it near his property so as to render it less habitable. *Richards v. Washington Terminal Co.*, 34 S.Ct. 654, 1914 U.S. LEXIS 1221 (U.S. Dist. Col. 1914).

Congress is prohibited by U.S. Const. Amend. 5, relating to the taking of private property for public use without just compensation, from conferring immunity in action for a private nuisance which amounts in effect to a taking of private property for public use. *Richards v. Washington Terminal Co.*, 34 S.Ct. 654, 1914 U.S. LEXIS 1221 (U.S. Dist. Col. 1914).

## § 9-1201.13. Railroads may use Union Station and terminals.

Any railroad company lawfully existing and authorized to extend a line of railroad into the District of Columbia, or having secured the right to operate over the lines of any other then existing railroad, to a point of connection with the tracks of the Washington Terminal Company, shall have the right to the joint use of said station and terminals authorized in the Act approved February 28, 1903 (32 Stat. 909), upon the payment of a reasonable compensation for the use of the same; and if the parties be unable to agree upon such terms, then the same shall be prescribed by the United States District Court for the District of Columbia, upon petition of either party in interest, under such rules of procedure as the said Court shall prescribe.

(Feb. 28, 1903, 32 Stat. 918, ch. 856, § 11; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 109, ch. 139, § 127.)

**Cross references.** — Public utilities, multiple company use of utility infrastructures, see § 34-1102.

**Prior Codifications.** — 1981 Ed., § 7-1413. 1973 Ed., § 7-1213.

## CASE NOTES

## ANALYSIS

Just compensation.  
Validity.

**Just compensation.**

U.S. Const. Amend. 5, does not require that an owner of property, no part of which was actually appropriated, but which lies near a railway tunnel maintained under Acts Feb. 12, 1901 (31 Stat. 774), and Feb. 28, 1903 (32 Stat. 909), on property acquired by condemnation, be compensated for damage through smoke and dirt and vibration incident to the operation of the railroad. *Richards v. Washington Terminal Co.*, 34 S.Ct. 654, 1914 U.S. LEXIS 1221 (U.S. Dist. Col. 1914).

An owner of property in the neighborhood of railroad tracks and a tunnel constructed under authority of acts Feb. 12, 1901 (31 Stat. 774), and Feb. 28, 1903 (32 Stat. 909), is entitled under Const. U.S. Amend. 5, to compensation for damages from gas and smoke emitted from locomotives in the tunnel and forced out of it near his property so as to render it less habitable. *Richards v. Washington Terminal Co.*, 34 S.Ct. 654, 1914 U.S. LEXIS 1221 (U.S. Dist. Col. 1914).

**Validity.**

Public funds are not unconstitutionally ap-

propriated for private use by Act Feb. 12, 1901, cc. 353, 354, 31 Stat. 767, 774, and Act Feb. 28, 1903, c. 856, 32 Stat. 909, for the elimination of grade crossings, and for a union railway station in the District of Columbia, which provide for the payment to the railway companies of a sum of money to be raised by a levy on the taxable property of the district in consideration of the removal of railroads from their present location, and of large expenditures of money by the railway companies, and the surrender by them of substantial rights. *Millard v. Roberts*, 26 S.Ct. 674, 1906 U.S. LEXIS 1544 (U.S. Dist. Col. 1906).

Bills for other than tax purposes, but which may incidentally create revenue, such as Act Feb. 12, 1901, cc. 353, 354, 31 Stat. 767, 774, and Act Feb. 28, 1903, c. 856, 32 Stat. 909, for the elimination of grade crossings and for a union railway station in the District of Columbia, which provide for the payment of a sum of money to the railway companies, to be raised by a tax on property in the District, are not revenue bills which, under Const. U.S. art. 1, § 7, cl. 1 (U.S. Const.), must originate in the House of Representatives. *Millard v. Roberts*, 26 S.Ct. 674, 1906 U.S. LEXIS 1544 (U.S. Dist. Col. 1906).

**§ 9-1201.14. Streets to be under or over railroad tracks.**

(a) Any and all streets or highways within the District of Columbia now or hereafter planned or projected to cross any line of railroad, other than a street railway, in the District of Columbia, which may be hereafter opened to public use, shall be located, constructed, and maintained either beneath such railroad by a suitable subway, or above the same by a suitable viaduct bridge at such altitude as will not interfere with the free and safe operation thereof; provided, however, that nothing herein contained shall require the location, construction, or maintenance of any such street or highway under or above any spur, industrial, switching or sidetrack, or branch line of any railroad unless the Mayor of the District of Columbia shall find the same is necessary in the public safety.

(b) The cost and expense of any project for opening any such street or highway within the limits of such railroad company's right-of-way, including the cost of constructing the portion of any viaduct bridge, within said limits, shall be borne and paid as follows:

(1) The District of Columbia shall apply to the payment of such cost and expense all federal-aid highway-railway grade separation funds available for use by the District of Columbia at the time any such project is programmed and all such funds which become available for use on such projects by the District of Columbia during the construction of such project;

(2) If such federal-aid highway-railway grade separation funds are insuf-



ficient to pay the cost and expense of any such project, the portion not so covered shall be paid one-half by the railroad company, its successors and assigns, whose tracks are crossed and one-half by the District of Columbia; provided, that in no case shall the obligation of the railroad company affected exceed 10 per centum of the total cost and expense of such project;

(3) After construction, the cost of maintenance shall be wholly borne and paid in the case of highway overpasses by the District of Columbia, and in the case of highway underpasses by the railroad company, its successors and assigns, whose tracks are crossed; and

(4) The portions of such streets planned or projected as above which lie within a right-of-way belonging to such railroad company shall be dedicated by such company as a public thoroughfare when the portions of such street adjoining such right-of-way have been similarly dedicated or otherwise acquired.

(Feb. 28, 1903, 32 Stat. 918, ch. 856, § 10; May 9, 1941, 55 Stat. 182, ch. 93, § 1; July 25, 1956, 70 Stat. 638, ch. 720, § 1.)

**Prior Codifications.** — 1981 Ed., § 7-1414. 1973 Ed., § 7-1214.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CASE NOTES

### In general.

Subsequent statute stating general rule with respect to railroads' maintenance obligations of railroad-highway grade separations did not nullify prior statute applying to one specific bridge that carved out exception to general rule by declaring that cost of maintenance of railroad bridge was to be borne exclusively by the District of Columbia. D.C. Code 1981, § 7-1414(b). *Brown v. CONRAIL*, 717 A.2d 309, 1998 D.C. App. LEXIS 153 (1998).

Statute declaring that cost of maintenance of particular railroad bridge was to be borne exclusively by the District of Columbia did not preempt railroad's common-law duty of care in maintenance of bridge. D.C. Code 1981, § 7-1414(b). *Brown v. CONRAIL*, 717 A.2d 309, 1998 D.C. App. LEXIS 153 (1998).

Where existing railroad lines are crossed by new highways established by government authority, the railroad may not ignore dangers

incident to its own use of crossing merely because it was first on the ground. *Brown v. CONRAIL*, 717 A.2d 309, 1998 D.C. App. LEXIS 153 (1998).

A damaged bridge vent was a "structure or other artificial condition on the land," giving rise to landowner's duty to protect from harm any passers-by on adjoining public ways. Restatement (Second) of Torts § 364(c). *Brown v. CONRAIL*, 717 A.2d 309, 1998 D.C. App. LEXIS 153 (1998).

It is the duty of every railroad company properly to construct and maintain crossings over all highways on its line in such a manner that they shall be safe and convenient to travelers so far as it may be done without interfering with the safe operation of the road, at least where the initial crossing construction and maintenance responsibilities were assumed by the railroad, or by its predecessor in interest. *Brown v. CONRAIL*, 717 A.2d 309, 1998 D.C. App. LEXIS 153 (1998).



**§ 9-1201.15. Subways and viaducts to eliminate grade crossings authorized.**

(a) The Mayor of the District of Columbia be, and he is hereby, authorized and directed to construct viaducts and approaches thereto, to carry Fern and Varnum Streets over the tracks and right-of-way of the Baltimore and Ohio Railroad Company and to construct a viaduct and approaches thereto to carry Eastern Avenue over the tracks and rights-of-way of The Philadelphia, Baltimore, and Washington Railroad Company and the Baltimore and Ohio Railroad Company, in accordance with plans and profiles of said works to be approved by the said Mayor; provided, that one-half of the total cost of constructing the viaduct and approaches thereto at Varnum Street and one-half of the total cost of constructing the viaduct and approaches thereto at Fern Street shall be borne and paid by the said Baltimore and Ohio Railroad Company, its successors and assigns, and that one-half of the total cost of constructing the viaduct and approaches thereto at Eastern Avenue shall be borne and paid by the said Philadelphia, Baltimore and Washington Railroad Company and the said Baltimore and Ohio Railroad Company, their successors and assigns, in proportion to the widths of their respective land holdings, to the Collector of Taxes of the District of Columbia for deposit to the credit of the District of Columbia, and the said half cost shall be valid and subsisting liens against the franchises and property of the railroad companies concerned and shall constitute a legal indebtedness against the said railroad companies in favor of the District of Columbia, and said liens may be enforced in the name of the District of Columbia by a bill in equity brought by the said Mayor in the Superior Court of the District of Columbia, or by any other legal proceeding against the said railroad companies; provided, that no street railway company shall use the said viaduct or any approaches thereto herein authorized for its tracks until said companies shall have paid to the Collector of Taxes of the District of Columbia, a sum equal to one-fourth of the total cost of constructing said viaducts and approaches, to be applied to the credit of the District of Columbia. No limitation shall run against claims made by the District of Columbia under the provisions of this section.

(b) For the purpose of carrying into effect the provisions of this section, the sum of \$405,000 is hereby authorized to be appropriated, payable in like manner as other appropriations, for the expenses of the government of the District of Columbia, and the said Mayor is authorized to expend such sum or sums as may be necessary for personal services, engineering, and incidental expenses. The said Mayor is further authorized to acquire, out of the appropriation herein authorized, the necessary land, or any portion of the same, by purchase at such price or prices as in his judgment he may deem reasonable and fair, or, in his discretion, by condemnation in accordance with the provisions of §§ 9-1217.12 to 9-1217.24 [repealed], under a proceeding or proceedings in rem instituted in the Superior Court of the District of Columbia; provided, that of the entire amount found to be due and awarded by the jury as damages for, and in respect of, the land to be condemned to carry the provisions of this section into effect, plus the costs and expenses of the

proceeding or proceedings taken pursuant hereto, not less than one-half thereof shall be assessed by the jury as benefits, the amounts collected as benefits to be covered into the Treasury of the United States to the credit of the District of Columbia.

(c) Hereafter, the Mayor of the District of Columbia is authorized, whenever in his judgment it may be necessary for the public safety, and subject to appropriations to be made therefor by Congress, to construct subways or viaducts and approaches thereto, in accordance with plans and profiles of said works to be approved by him, to carry any street or highway crossing at grade any line of railroad track or tracks in the District of Columbia, or any street or highway within the District of Columbia now or hereafter planned or projected to cross any such line of railroad, under or over said track or tracks; provided, that the total cost of constructing any project for such viaduct or subway and approaches thereto shall be borne and paid as follows:

(1) The District of Columbia shall apply to the payment of the cost of such project all federal-aid highway-railway grade separation funds available for use by the District of Columbia at the time any such project is programmed and all such funds which become available for use on such project by the District of Columbia during the construction of such projects; and

(2) If such federal-aid highway-railway grade separation funds are insufficient to pay the cost of any such project, the portion not so covered shall be paid one-half by the railroad company, its successors and assigns, whose tracks are crossed and one-half by the District of Columbia; provided further, that in no case shall the obligation of the railroad company affected exceed 10 per centum of the total cost of such project; provided further, that in the event the rights-of-way of 2 or more railroad companies are so crossed said half cost as herein provided shall be paid by the said railroad companies, their successors and assigns, in proportion to the widths of their respective landholdings, but the obligations of such companies shall not, in the aggregate, exceed 10 per centum of the cost of such project; provided further, that after construction the cost of maintenance shall be wholly borne and paid in the case of highway overpasses by the District of Columbia, and in the case of highway underpasses by the railroad company, its successors and assigns, whose tracks are crossed; provided further, that in the event the rights-of-way of 2 or more railroad companies are so crossed, the cost of maintenance shall be borne and paid in the case of highway underpasses by the said railroad companies, their successors and assigns, in proportion to the widths of their respective landholdings. All provisions in respect to the method of payment and credit of said half cost, creation of a lien in respect thereto and enforcement thereof, conditions of use thereof by street railway companies, and every other kind of condition provided in subsection (a) of this section, and the authorization and every condition in respect thereto for the acquisition of any necessary land provided in subsection (b) of this section, in relation to the viaducts and their approaches therein authorized, are hereby made applicable to the subways, viaducts, and approaches authorized in this section the same as if enacted at length herein.

(Mar. 3, 1927, 44 Stat. 1353, ch. 306, §§ 1-3; June 25, 1936, 49 Stat. 1921, ch.



804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 25, 1956, 70 Stat. 639, ch. 720, § 2; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(28).)

**Cross references.** — Eminent domain, condemnation proceedings, see § 16-1301 et seq.

**Section references.** — This section is referenced in § 9-1203.05 and § 9-1205.04.

**Prior Codifications.** — 1981 Ed., § 7-1415. 1973 Ed., § 7-1215.

**References in text.** — “Sections 9-1217.12 to 9-1217.24,” referred to in the second sentence of subsection (b), have been repealed by § 704 of D.C. Law 7-201, effective March 10, 1983 and by § 16 of D.C. Law 5-24, effective August 2, 1983.

**Editor’s notes.** — Office of Collector of Taxes abolished: The Office of the Collector of Taxes was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. All functions of the Office of the Collector of Taxes including the functions of all officers, employees and subordinate agencies were transferred to the Director, Department of General Administration by Reorganization Order No. 3, dated August 28, 1952. Reorganization Order No. 20, dated November 10, 1952, transferred the functions of the Collector of Taxes to the Finance Office. The same Order provided for the Office of the Collector of Taxes headed by a Collector in the Finance Office, and abolished the previously existing Office of the Collector of Taxes. Reorganization Order No. 20 was superseded and replaced by Organization Order No. 121, dated December 12, 1957, which provided that the Finance Office (consisting of the Office of the Finance Officer, Property Tax Division, Revenue Division, Treasury Division, Accounting Division, and Data Processing Division) would continue under the direction and control of the Director of General Administration, and that the Treasury Division would perform the function of collecting revenues of the District of Columbia

and depositing the same with the Treasurer of the United States. Organization Order No. 121 was revoked by Organization Order No. 3, dated December 13, 1967, Part IVC of which prescribed the functions of the Finance Office within a newly established Department of General Administration. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions of the Finance Office as stated in Part IVC of Organization Order No. 3 were transferred to the Director of the Department of Finance and Revenue by Commissioner’s Order No. 69-96, dated March 7, 1969. The collection functions of the Director of the Department of Finance and Revenue were transferred to the District of Columbia Treasurer by § 47-316 on March 5, 1981.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## *Subchapter II. Railroad Track Extensions — Navy Yard.*

### **§ 9-1203.01. Track extensions for development of Buzards Point authorized.**

The Philadelphia, Baltimore and Washington Railroad Company is hereby authorized to establish a switch connection with an existing track in its New Jersey Avenue yard, at a point north of the north curb line of I Street Southeast; thence southward on 1st Street Southeast to and connecting with the existing track on 1st Street Southeast at or about N Street, with a switch connection at or about Quander Street and spur track running over, across,



and through square 743 to and into the United States Navy Yard; thence southward on 1st Street Southeast to and thence along Potomac Avenue to the west line of 2nd Street Southwest, with all necessary switches, extensions, turnouts, and sidings and such other track extensions through and along One-half Street Southwest, and 2nd Street Southwest, south of Potomac Avenue and north of Potomac Avenue to P Street, and One-half Street Southeast, south of Potomac Avenue and north of Potomac Avenue to O Street, as may be or become necessary for the establishment of adequate railroad facilities in connection with the development of Buzzards Point as an industrial area in the District of Columbia.

(June 18, 1932, 47 Stat. 322, ch. 269, § 1; June 20, 1939, 53 Stat. 849, ch. 229; June 5, 1942, 56 Stat. 326, ch. 353.)

**Cross references.** — Public utilities, multiple company use of utility infrastructures, see § 34-1102.

Real property assessment and tax, property owned or occupied by railroad companies, see §§ 47-836 and 47-837.

**Section references.** — This section is referenced in § 9-1203.04.

**Prior Codifications.** — 1981 Ed., § 7-1416. 1973 Ed., § 7-1216.

## § 9-1203.02. Sale or lease of track connection with Navy Yard authorized.

The Secretary of the Navy is authorized to sell and transfer or to lease to The Philadelphia, Baltimore, and Washington Railroad Company, its successors and/or assigns, upon such terms and for such amount as he may deem to be both just and reasonable, the existing railroad track connection with the United States Navy Yard as constructed and established under authority conferred by an Act of Congress approved August 29, 1916, entitled “An Act making appropriations for the naval service for the fiscal year ending June 30, 1917, and for other purposes”; provided, that the title to any right of way or property provided by the United States for the purposes of such construction and occupied by said track connection on June 18, 1932, shall remain in the United States; and provided further, that said track connection, insofar as the requirements of the United States Navy Yard may be affected, at all times shall be maintained and operated by said railroad company, its successors or assigns, to the satisfaction of the Secretary of the Navy.

(June 18, 1932, 47 Stat. 322, ch. 269, § 2.)

**Prior Codifications.** — 1981 Ed., § 7-1417. 1973 Ed., § 7-1217.

**References in text.** — The Act approved

August 29, 1916, referred to near the middle of this section, means the Act of August 29, 1916, 39 Stat. 556, ch. 417.

## § 9-1203.03. Branch tracks, spurs, or sidings authorized.

Said railroad company is hereby authorized to construct, maintain, and operate branch tracks, spurs, or sidings into any lot or square zoned or thereafter zoned for industrial or 2nd commercial use abutting upon any street or avenue over and along which said railroad company is hereby specifically

authorized to lay and operate tracks, and also to construct tracks to serve any wharf which may be established on the Anacostia River; provided, that the construction of all such railroad tracks and appurtenant turnouts, branch tracks, and sidings, in all respects and things, shall be subject to the prior approval of the Council of the District of Columbia after report by the National Capital Planning Commission, such approval to be noted upon identical copies of a suitably prepared plat or chart, 1 copy to be kept on file in the Office of the Mayor of the District of Columbia and the other thereof to be kept on file in the office of the National Capital Planning Commission.

(June 18, 1932, 47 Stat. 322, ch. 269, § 3.)

**Prior Codifications.** — 1981 Ed., § 7-1418.  
1973 Ed., § 7-1218.

**Transfer of Functions.** — The functions, powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of June 6, 1924, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(176) of Reorganization Plan No. 3 of 1967 (see Reor-

ganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-1203.04. Extensions through public grounds authorized.

Subject always to the approval of the Council of the District of Columbia, all such railroad tracks, turnouts, branch tracks, spurs, and sidings may be located and constructed in, upon, along, and through public grounds, space, and streets of the United States and/or of the District of Columbia as same are now or may hereafter be located and established; provided, that except as in §§ 9-1203.01 to 9-1203.09 expressly authorized no tracks, turnouts, branches, spurs, or sidings shall be constructed along or through South Capitol Street or 1st Street Southwest in the north and south direction, at grade or otherwise, but each of said streets, with prior approval of said Council of the District of Columbia, may be crossed to such extent as may be necessary for the establishment of adequate railroad facilities; provided further, that no permit for the construction of tracks, turnouts, branches, spurs, or sidings shall be issued with respect to squares 600, 602, 604, 606, 608, 610, and 612, or any of said squares, until the particular square or squares for which a permit is sought shall have been zoned industrial; and provided further, that the plans for any building fronting on Canal Street from the Anacostia River to P Street Southwest shall have the approval of the Fine Arts Commission as to height and design.

(June 18, 1932, 47 Stat. 323, ch. 269, § 4.)



**Prior Codifications.** — 1981 Ed., § 7-1419. 1973 Ed., § 7-1219.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(177) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-1203.05. Authority of Mayor under § 9-1201.15 not affected.

Nothing contained in this subchapter shall be construed as limiting or abridging the authority of the Mayor of the District of Columbia under § 9-1201.15.

(June 18, 1932, 47 Stat. 323, ch. 269, § 5.)

**Prior Codifications.** — 1981 Ed., § 7-1420. 1973 Ed., § 7-1220.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-1203.06. Condemnation proceedings by railroad company.

The Philadelphia, Baltimore, and Washington Railroad Company, its successors or assigns, is authorized to acquire any land or property other than public grounds, space, or streets of the United States or the District of Columbia necessary or expedient for right-of-way for said track extensions, turnouts, branch tracks, spurs, sidings, and connections by purchase or condemnation. In event that said company, its successors or assigns, shall be unable to acquire any piece or parcel of land necessary or expedient for any of the purposes indicated in this subchapter, at a price deemed by it to be reasonable, then, and in such event The Philadelphia, Baltimore, and Washington Railroad Company, its successors and assigns, is authorized to acquire the same by condemnation proceedings to be instituted in its own name by petition filed in the United States District Court for the District of Columbia for the ascertainment of its value, in accordance with the provisions of §§ 16-1301 and 16-1311 to 16-1321.



(June 18, 1932, 47 Stat. 323, ch. 269, § 6; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127.)

**Cross references.** — Eminent domain, condemnation proceedings, see § 16-1301 et seq.

**Prior Codifications.** — 1981 Ed., § 7-1421. 1973 Ed., § 7-1221.

## § 9-1203.07. Company to pay portion of cost of paving or repairing streets.

If and when the Mayor of the District of Columbia shall decide to pave or repave any of the streets over or along which tracks are authorized to be constructed, the railroad company shall be required to bear the expense of the paving and/or repairs to pavements between the rails and on either side of the tracks for a distance of 2 feet.

(June 18, 1932, 47 Stat. 323, ch. 269, § 7.)

**Prior Codifications.** — 1981 Ed., § 7-1422. 1973 Ed., § 7-1222.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-1203.08. Use of track extensions by other carriers.

The authority to establish, construct, acquire, maintain, and operate the tracks, switch connections, extensions, turnouts, sidings, branches, spurs, and other facilities provided for in this subchapter is given upon the following conditions, to wit: The said facilities shall be open to any and all freight traffic by rail whether originating within or without the District of Columbia either on the said The Philadelphia, Baltimore, and Washington Railroad Company or any other common carrier railroad, upon such just, reasonable, and nondiscriminatory rates, terms, and conditions as may be embraced in public tariffs, subject to the jurisdiction of the Interstate Commerce Commission as provided for other rates under the provisions of the Interstate Commerce Act; provided, that no greater charge shall be made for deliveries to be made upon said facilities than is or are or may be made for delivery of like traffic consigned for delivery at any other delivery point on The Philadelphia, Baltimore, and Washington Railroad Company in the District of Columbia; special, free, or reduced rates or charges for deliveries of property consigned to the United States or any of its departments, bureaus, or subordinate branches or to or for use of the municipality of the District of Columbia not included; and provided further, that any common carrier by railroad now or hereafter authorized to operate in the District of Columbia shall, upon application to and approval by

the Interstate Commerce Commission, be permitted to use jointly all such facilities as provided in this subchapter on such terms and for such compensation as may be prescribed by the said Interstate Commerce Commission in accordance with the provisions of the Interstate Commerce Act, as amended.

(June 18, 1932, 47 Stat. 324, ch. 269, § 8.)

**Prior Codifications.** — 1981 Ed., § 7-1423.  
1973 Ed., § 7-1223.

**References in text.** — The Interstate Com-

merce Act, referred to throughout this section, is codified throughout Chapters 1, 8, 12, 13 and 19 of Title 49, United States Code.

### § 9-1203.09. Right to alter, amend, or repeal this subchapter.

The right to alter, amend, or repeal this subchapter is reserved without regard to any payments required or agreements established under their terms.

(June 18, 1932, 47 Stat. 324, ch. 269, § 9.)

**Prior Codifications.** — 1981 Ed., § 7-1424.

1973 Ed., § 1224.

### *Subchapter III. Railroad Track Extensions — New York Ave.*

### § 9-1205.01. Construction of switch connections — Authorized.

The Pennsylvania Railroad Company, operating lessee of all of the railroads and appurtenant properties of The Philadelphia, Baltimore, and Washington Railroad Company in the District of Columbia, be, and it is hereby, authorized to establish switch and siding connections with its existing siding tracks in square no. 4263 (also shown as parcel 154/44) to cross West Virginia Avenue into and through square no. 4105 along and adjacent to the existing main line tracks, thence into and through square nos. 4104 and 4099, crossing New York Avenue by means of a suitable overhead bridge, thence to and through square no. 4099 and the parcels of land known and identified on the Plat Books of the Surveyor's Office of the District of Columbia as parcels 153/44, 143/25, 142/25, and 142/28, to and through the square known as and no. 4038 (portions of which are included in parcel 142/28), 4093, south of 4093, and 4098, with all switches, crossings, turnouts, extensions, spurs, and sidings, as may be or become necessary for the development of the squares and parcels of land above indicated for such uses as may be permitted in the use district or districts in which said squares and parcels of land are now or may hereafter be included as defined in the zoning regulations of the District of Columbia and shown in the official atlases of the Zoning Commission.

(Aug. 6, 1935, 49 Stat. 537, ch. 449, § 1.)

**Cross references.** — Surveyor of the District of Columbia, duties, see § 1-1301 et seq.

**Section references.** — This section is referenced in § 9-1205.02 and § 9-1205.03.

**Prior Codifications.** — 1981 Ed., § 7-1425.  
1973 Ed., § 7-1225.

## § 9-1205.02. Construction of switch connections — Plans to be approved by Mayor.

Before any of the work authorized in § 9-1205.01 shall be begun on the ground, a plan or plans thereof shall be prepared and submitted to the Mayor of the District of Columbia for his approval and only to the extent that such plans shall be so approved shall said work or any portion thereof be permitted or undertaken.

(Aug. 6, 1935, 49 Stat. 537, ch. 449, § 2.)

**Prior Codifications.** — 1981 Ed., § 7-1426. 1973 Ed., § 7-1226.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-1205.03. Construction of switch connections — Grade crossings.

Subject only to the approval of the Mayor of the District of Columbia the crossing of any public street or alley other than New York Avenue, within the limits of the total area noted in § 9-1205.01 may be at or on grade. The said railroad shall, when and as directed by the Mayor of the District of Columbia, construct at its entire cost and expense, an additional overhead bridge for the track hereby authorized to be established over such other street located between Montello Avenue and New York Avenue as such street may now or may hereafter be shown on the Plan of the Permanent System of Highways.

(Aug. 6, 1935, 49 Stat. 537, ch. 449, § 3.)

**Cross references.** — Highway plan, see § 9-101.01 et seq.

Public utilities, multiple company use of utility infrastructures, see § 34-1102.

**Prior Codifications.** — 1981 Ed., § 7-1427. 1973 Ed., § 7-1227.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.



### § 9-1205.04. Construction of switch connections — Authority of Mayor not abridged.

Nothing contained in this subchapter shall be construed as limiting or abridging the authority of the Mayor of the District of Columbia under §§ 9-315, 9-316 and 9-1201.15.

(Aug. 6, 1935, 49 Stat. 537, ch. 449, § 4.)

**Prior Codifications.** — 1981 Ed., § 7-1428. 1973 Ed., § 7-1228.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-1205.05. Right to amend, alter or repeal this subchapter reserved.

Congress reserves the right to amend, alter, or repeal this subchapter.

(Aug. 6, 1935, 49 Stat. 537, ch. 449, § 5.)

**Prior Codifications.** — 1981 Ed., § 7-1429. 1973 Ed., § 7-1229.

## *Subchapter IV. Electrification of Railroad Lines.*

### § 9-1207.01. Electrification of existing steam railroad lines.

Steam railroad companies now operating within the District of Columbia are hereby authorized, after approval of their detailed plans and issuance of a permit by the Mayor of the District of Columbia, to electrify their lines within the District of Columbia and across the Anacostia and Potomac Rivers with an alternating current overhead catenary or other type of electrification system, with all necessary transmission, signal, and communication conductors and equipment, poles, conduits, underground and overhead construction, substations, and any other structures necessary in such electrification, the provisions of any law or laws to the contrary notwithstanding.

(Mar. 27, 1934, 48 Stat. 506, ch. 97, § 1.)

**Prior Codifications.** — 1981 Ed., § 7-1430. 1973 Ed., § 7-1230.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commis-

sioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia.

These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### **In general.**

This section expressly granted authority to District railroads to install catenary systems. *Edwards v. Consolidated Rail Corp.*, 567 F. Supp. 1087, 733 F.2d 966 (D.D.C. 1983).

Where railroad's high-voltage catenary wire which injured child trespasser was suspended 18 and one-half feet in the air and was ordinarily inaccessible, standing trains were the only means of access to the wires available to children at site where the injury occurred, but through trains were stopped at the site only occasionally and briefly, and no similar incident involving catenary wires had occurred for six years at or near the site where child was injured, and none had ever occurred after freeway blocked easy access to the site from housing nearby, railroad had no reason to know that its catenary wires posed an unreasonable risk, and attractive nuisance doctrine did not provide a basis for tort liability for injuries to child trespasser. *Edwards v. Consolidated Rail Corp.*, 567 F. Supp. 1087, 1983 U.S. Dist. LEXIS 15609 (1983), affirmed without opinion by 733 F.2d 966, 236 U.S. App. D.C. 135 (1984).

Where railroad's high-voltage catenary wires which caused injuries to child trespasser were necessary to provide power to enable railroad to run its interstate trains, the risk of harm posed by the catenary system to child trespassers at the site where plaintiff was injured was slight, and the cost of fencing all of railroad's track would be more than \$2.5 billion, neither the utility of the catenary system nor the burden of eliminating its dangers was slight when compared to the risk of injury, and thus attractive nuisance doctrine could not provide a basis for imposing tort liability upon railroad for injuries sustained by child trespasser when he climbed on top of train and was exposed to high-voltage catenary wire. *Edwards v. Consolidated Rail Corp.*, 567 F. Supp. 1087, 1983 U.S. Dist.

LEXIS 15609 (1983), affirmed without opinion by 733 F.2d 966, 236 U.S. App. D.C. 135 (1984).

Where railroad was in compliance with all statutes and regulations and had no reason to suspect that location where child trespasser was injured by high-voltage catenary wires suspended above railroad tracks was any more likely to have such a catenary accident than any other used by through trains along its lines, and at different sites along railroad line where train stood for long periods or where catenary wires were not beyond normal reach, railroad had a policy of either fencing surrounding area or of de-energizing the wires, railroad had taken reasonable precautions to protect against the risk of harmful catenary wires where it was reasonably foreseeable that such harm might occur, and therefore, attractive nuisance doctrine could not provide a basis for imposing liability on railroad for injuries sustained by child trespasser. *Edwards v. Consolidated Rail Corp.*, 567 F. Supp. 1087, 1983 U.S. Dist. LEXIS 15609 (1983), affirmed without opinion by 733 F.2d 966, 236 U.S. App. D.C. 135 (1984).

Railroad's common-law duty of reasonable care with respect to protective mechanisms at railroad rights-of-way in connection with suspended catenary wires was not preempted sub silentio by the federal power to regulate all aspects of railroad safety, because there were no federal regulations on the subject matter of fencing, signing, or other protective mechanisms at railroad rights-of-way with regard to suspended catenary wires, and the mere existence of an unexercised power to preempt was not in itself preemptive of local common-law remedies against railroad. *Edwards v. Consolidated Rail Corp.*, 567 F. Supp. 1087, 1983 U.S. Dist. LEXIS 15609 (1983), affirmed without opinion by 733 F.2d 966, 236 U.S. App. D.C. 135 (1984).

### **§ 9-1207.02. Submarine cables at drawbridge openings.**

Submarine cables may be used at drawbridge openings, provided previous approval shall have been obtained from the Department of the Army.

(Mar. 27, 1934, 48 Stat. 506, ch. 97, § 2.)

**Prior Codifications.** — 1981 Ed., § 7-1431. 1973 Ed., § 7-1231.

### § 9-1207.03. Construction of electrical conduit systems authorized.

Where necessary for such electrification, the Mayor of the District of Columbia may issue permits to construct conduit systems through or under the surfaces of public streets or other District of Columbia or United States property; provided, however, that 3 ducts therein shall be reserved for the use of the United States and the District of Columbia.

(Mar. 27, 1934, 48 Stat. 507, ch. 97, § 3.)

**Cross references.** — Electrical wiring and conduit systems, see §§ 34-1401 et seq. and 34-2501 et seq.

**Prior Codifications.** — 1981 Ed., § 7-1432. 1973 Ed., § 7-1232.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-1207.04. Jurisdiction of Department of Army, Mayor, and Interstate Commerce Commission not limited.

Nothing contained in this subchapter shall be construed as limiting or abridging the authority of the Department of the Army, the Mayor of the District of Columbia, or of the Interstate Commerce Commission.

(Mar. 27, 1934, 48 Stat. 507, ch. 97, § 4.)

**Prior Codifications.** — 1981 Ed., § 7-1433. 1973 Ed., § 7-1233.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 9-1207.05. Liability of railroad companies for injuries.

The said railroad companies shall be liable for any accident to, or injuries sustained by, any person by reason of any act or omission of the railroad



companies or by their agents or servants during the construction, installation, maintenance, or operation of the electrical equipment and apparatus of the railroad trains.

(Mar. 27, 1934, 48 Stat. 507, ch. 97, § 5.)

**Prior Codifications.** — 1981 Ed., § 7-1434. 1973 Ed., § 7-1234.

### CASE NOTES

#### **In general.**

District of Columbia statute providing that railroad company shall be liable for any accident to, or injuries sustained by, any person by reason of any act or omission of railroad companies or their agents in the operation of electrical equipment and apparatus of railroad trains did not impose strict liability upon railroad for electrical injuries sustained by child trespasser. D.C. Code 1981, §§ 7-1430 to 7-1435. *Edwards v. Consolidated Rail Corp.*, 567 F. Supp. 1087, 1983 U.S. Dist. LEXIS 15609 (1983), affirmed without opinion by 733 F.2d 966, 236 U.S. App. D.C. 135 (1984).

Where railroad's high-voltage catenary wire which injured child trespasser was suspended 18 and one-half feet in the air and was ordinarily inaccessible, standing trains were the only means of access to the wires available to children at site where the injury occurred, but through trains were stopped at the site only occasionally and briefly, and no similar incident involving catenary wires had occurred for six years at or near the site where child was injured, and none had ever occurred after freeway blocked easy access to the site from housing nearby, railroad had no reason to know that its catenary wires posed an unreasonable risk, and attractive nuisance doctrine did not provide a basis for tort liability for injuries to child trespasser. *Edwards v. Consolidated Rail Corp.*, 567 F. Supp. 1087, 1983 U.S. Dist. LEXIS 15609 (1983), affirmed without opinion by 733 F.2d 966, 236 U.S. App. D.C. 135 (1984).

Where railroad's high-voltage catenary wires which caused injuries to child trespasser were necessary to provide power to enable railroad to run its interstate trains, the risk of harm posed by the catenary system to child trespassers at the site where plaintiff was injured was slight, and the cost of fencing all of railroad's track would be more than \$2.5 billion, neither the utility of the catenary system nor the burden of eliminating its dangers was slight when compared to the risk of injury, and thus attractive nuisance doctrine could not provide a basis for imposing tort liability upon railroad for injuries sustained by child trespasser when he climbed on top of train and was exposed to high-voltage catenary wire. *Edwards v. Consolidated Rail Corp.*, 567 F. Supp. 1087, 1983 U.S. Dist.

LEXIS 15609 (1983), affirmed without opinion by 733 F.2d 966, 236 U.S. App. D.C. 135 (1984).

Where railroad was in compliance with all statutes and regulations and had no reason to suspect that location where child trespasser was injured by high-voltage catenary wires suspended above railroad tracks was any more likely to have such a catenary accident than any other used by through trains along its lines, and at different sites along railroad line where train stood for long periods or where catenary wires were not beyond normal reach, railroad had a policy of either fencing surrounding area or of de-energizing the wires, railroad had taken reasonable precautions to protect against the risk of harmful catenary wires where it was reasonably foreseeable that such harm might occur, and therefore, attractive nuisance doctrine could not provide a basis for imposing liability on railroad for injuries sustained by child trespasser. *Edwards v. Consolidated Rail Corp.*, 567 F. Supp. 1087, 1983 U.S. Dist. LEXIS 15609 (1983), affirmed without opinion by 733 F.2d 966, 236 U.S. App. D.C. 135 (1984).

Railroad's common-law duty of reasonable care with respect to protective mechanisms at railroad rights-of-way in connection with suspended catenary wires was not preempted sub silentio by the federal power to regulate all aspects of railroad safety, because there were no federal regulations on the subject matter of fencing, signing, or other protective mechanisms at railroad rights-of-way with regard to suspended catenary wires, and the mere existence of an unexercised power to preempt was not in itself preemptive of local common-law remedies against railroad. *Edwards v. Consolidated Rail Corp.*, 567 F. Supp. 1087, 1983 U.S. Dist. LEXIS 15609 (1983), affirmed without opinion by 733 F.2d 966, 236 U.S. App. D.C. 135 (1984).

In action against railroad to recover for injuries sustained by child trespasser when he climbed on top of railroad's train and was exposed to high-voltage catenary wire suspended above railroad tracks, evidence of prior accidents which occurred at locations and under circumstances far from and totally dissimilar to the site at which plaintiff was injured were inadmissible and were not material for

purposes of summary judgment. *Edwards v. Consolidated Rail Corp.*, 567 F. Supp. 1087, 1983 U.S. Dist. LEXIS 15609 (1983), affirmed

without opinion by 733 F.2d 966, 236 U.S. App. D.C. 135 (1984).

### *Subchapter IV-A. Streetcars.*

#### **§ 9-1208.01. Streetcar plan.**

The Mayor shall submit to the Council a comprehensive plan for financing, operations, and necessary capital facilities of the Streetcar Project, along with a proposed resolution for approval of the plan, for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the plan, in whole or in part, by resolution, within this 45-day review period, the proposed plan shall be deemed approved.

(Sept. 24, 2010, D.C. Law 18-223, § 7065(a), 57 DCR 6242.)

**Emergency legislation.** — For temporary (90 day) addition, see § 7065(a) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 18-223.** — Law 18-223, the “Fiscal Year 2011 Budget Support Act of 2010”, was introduced in Council and assigned Bill No. 18-731, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May

26, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

**Resolutions.** — Resolution 18-680, the “Streetcar Project Comprehensive Plan Approval Resolution of 2010”, was approved effective December 7, 2010.

### *Subchapter V. Employment for Purposes of Road Work.*

#### **§ 9-1209.01. Employment of temporary special and technical employees.**

The services of draftsmen, assistant engineers, levelers, transitmen, rodmen, chainmen, computers, copyists, overseers, and inspectors temporarily required in connection with sewer, water, street, street-cleaning, or road work, or construction and repair of buildings and bridges, or any general or special engineering or construction work authorized by appropriations may be employed exclusively to carry into effect District of Columbia appropriations when ordered by the Mayor of the District of Columbia in writing, and all such necessary expenditures for the proper execution of said work shall be paid from and equitably charged against the sums appropriated for said work; and the Mayor in his budget estimates shall report the number of such employees performing such services, and their work, and the sums paid to each, and out of what appropriation; provided, that the expenditures hereunder shall not exceed \$42,000 during any 1 fiscal year; provided further, that, excluding Inspectors in the Sewer Department, 1 inspector in the Electrical Department, and 1 Inspector in the Repair Shop, no person shall be employed in pursuance of the authority contained in this section for a longer period than 9 months in the aggregate during any 1 fiscal year.



(June 28, 1944, 58 Stat. 530, ch. 300, § 2.)

**Prior Codifications.** — 1981 Ed., § 7-1435. 1973 Ed., § 7-1235.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-1209.02. Employment of temporary laborers and mechanics.

The Mayor of the District of Columbia, or his duly designated representatives, are authorized to employ temporarily such laborers, skilled laborers, drivers, hostlers, and mechanics as may be required exclusively in connection with sewer, water, street, and road work, and street cleaning, or the construction and repair of buildings and bridges, furniture and equipment, and any general or special engineering or construction or repair work, at per diem rates of pay to be fixed and adjusted from time to time by a wage board and approved by the Council of the District of Columbia, and to incur all necessary engineering and other expenses, exclusive of personal services, incidental to carrying on such work and necessary for the proper execution thereof, said laborers, skilled laborers, drivers, hostlers, and mechanics to be employed to perform such work as may not be required by law to be done under contract, and to pay for such services and expenses from the appropriations under which such services are rendered and expenses incurred.

(June 28, 1944, 58 Stat. 531, ch. 300, § 2.)

**Section references.** — This section is referenced in § 9-1209.03.

**Prior Codifications.** — 1981 Ed., § 7-1436. 1973 Ed., § 7-1236.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(178) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia

Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-1209.03. Employment of horses, horse-drawn vehicles, and motortrucks.

All horses, harness, horse-drawn vehicles necessary for use in connection



with construction and supervision of sewer, street, street lighting, road work, and street-cleaning work, including maintenance of said horses and harness, and maintenance and repair of said vehicles, and purchase of all necessary articles and supplies in connection therewith, or on construction and repair of buildings and bridges, or any general or special engineering or construction work authorized by District of Columbia appropriations, may be purchased, hired, and maintained, and motortrucks may be hired exclusively to carry into effect said appropriations, when ordered by the Mayor of the District of Columbia in writing; and all such expenditures necessary for the proper execution of said work, exclusive of personal services, shall be paid from and equitably charged against the sums appropriated for said work; and the Mayor in the budget estimates shall report the number of horses, vehicles, and harness purchased, and horses and vehicles hired, and the sums paid for same, and out of what appropriation; and all horses owned or maintained by the District shall, so far as may be practicable, be provided for in stables owned or operated by said District; provided, that such horses, horse-drawn vehicles, and carts as may be temporarily needed for hauling and excavating material in connection with works authorized by appropriations may be temporarily employed for such purposes under the conditions named in § 9-1209.02 in relation to the employment of laborers, skilled laborers, and mechanics.

(June 28, 1944, 58 Stat. 531, ch. 300, § 3.)

**Prior Codifications.** — 1981 Ed., § 7-1437. 1973 Ed., § 7-1237.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### **§ 9-1209.04. Employment of personnel and equipment to execute work payable from miscellaneous trust fund deposits.**

The Mayor of the District of Columbia is authorized to employ in the execution of work, the cost of which is payable from the appropriation account created in the District of Columbia Appropriation Act, approved April 27, 1904, and known as the miscellaneous trust fund deposits, District of Columbia, necessary personal services, horses, carts, and wagons, and to hire therefor motortrucks when specifically and in writing authorized by the Mayor, to establish and fix fees to be charged for such work, maintain operating balances, and to incur all necessary expenses incidental to carrying on such work, and necessary for the proper execution thereof, including the purchase, exchange, maintenance, and operation of motor vehicles for inspection and

transportation purposes; such services and expenses to be paid from said appropriation account or operating balances; provided, that the Mayor may delegate to his duly authorized representatives the employment under this section of laborers, mechanics, and artisans.

(June 28, 1944, 58 Stat. 531, ch. 300, § 4.)

**Prior Codifications.** — 1981 Ed., § 7-1438. 1973 Ed., § 7-1238.

**References in text.** — The “District of Columbia Appropriation Act, approved April 27, 1904,” referred to near the beginning of this section, means the Act of April 27, 1904, 33 Stat. 363, ch. 1628.

**Editor’s notes.** — Deposit of moneys in General Fund: Section 7(d) of the Act of June 14, 1980, D.C. Law 3-70, provided that moneys maintained in miscellaneous trust funds pursuant to § 7-1438 shall hereafter be deposited in the General Fund.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of

Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### *Subchapter VI. Helicopter Landing Pads.*

#### **§ 9-1211.01. Helicopter landing pads.**

(a) The operation of a helicopter landing pad, which was not in operation prior to July 14, 1987, in any residential district in the District of Columbia, identified in the Zoning Regulations of the District of Columbia and shown in the official atlases of the Zoning Commission for the District of Columbia, shall constitute a public nuisance.

(b) The Corporation Counsel or affected members of the public may maintain an action in the Superior Court of the District of Columbia to abate and enjoin perpetually the nuisance.

(Oct. 9, 1987, D.C. Law 7-40, § 2, 34 DCR 5333.)

**Prior Codifications.** — 1981 Ed., § 7-1439.

**Legislative history of Law 7-40.** — Law 7-40, the “Helicopter Landing Pad Public Nuisance Act of 1987,” was introduced in Council and assigned Bill No. 7-191, which was referred to the Committee of the Whole. The Bill was

adopted on first and second readings on June 30, 1987, and July 14, 1987, respectively. Signed by the Mayor on July 23, 1987, it was assigned Act No. 7-68 and transmitted to both Houses of Congress for its review.

### *Subchapter VII. Barbed-Wire Fences.*

#### **§ 9-1213.01. Construction or maintenance within fire limits.**

No fence, barrier, or obstruction consisting or made, in whole or in part, of what is commonly called barbed wire shall be erected, constructed, or main-

tained along the line of or in or upon any street, avenue, alley, road, or other public walk, driveway, or public or private parking within the fire limits of the District of Columbia.

(July 8, 1898, 30 Stat. 724, ch. 640, § 1.)

**Section references.** — This section is referenced in § 9-1213.03.

**Prior Codifications.** — 1981 Ed., § 7-801. 1973 Ed., § 7-1101.

## § 9-1213.02. Construction or maintenance outside fire limits.

No fence, barrier, or obstruction made, in whole or in part of what is commonly called barbed wire shall be erected, constructed, or maintained within the said District of Columbia, outside of the fire limits, along the line of or in or upon any street, avenue, alley, road, or other public walk, driveway, or public or private parking without a permit therefor from the Mayor of the District of Columbia.

(July 8, 1898, 30 Stat. 724, ch. 640, § 2.)

**Cross references.** — Highway plans, jurisdiction of mayor over roads and bridges, see § 9-101.02.

**Section references.** — This section is referenced in § 9-1213.03.

**Prior Codifications.** — 1981 Ed., § 7-802. 1973 Ed., § 7-1102.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 9-1213.03. Notice to remove; service.

Whenever, under the provisions of §§ 9-1213.01 and 9-1213.02 any barbed wire in use in whole or in part on July 8, 1898, for a fence, barrier, or obstruction, along the line of or in or upon any street, avenue, alley, road, or other public walk, driveway, or public or private parking within the District of Columbia is required to be removed, said wire shall be removed by the owner of the building or other property upon which such fence, barrier, or obstruction exists, or his or her agent, within 30 days from the service by the Inspector of Buildings of said District of a notice, served in like manner as notices in regard to assessment and permit work are required by law to be served, directing the owner, agent, or other person or persons owning or controlling the land, structure, or other property upon which such fence or barrier exists to remove the same.

(July 8, 1898, 30 Stat. 724, ch. 640, § 3.)



**Prior Codifications.** — 1981 Ed., § 7-803. 1973 Ed., § 7-1103.

§ 9-1213.04. Penalties.

Any person violating any of the provisions of this chapter shall, upon conviction thereof in the Superior Court of the District of Columbia be fined not more than \$10 for each day such violation shall continue. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules and regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(July 8, 1898, 30 Stat. 725, ch. 640, § 4; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); Oct. 5, 1985, D.C. Law 6-42, § 473, 32 DCR 4450.)

**Prior Codifications.** — 1981 Ed., § 7-804. 1973 Ed., § 7-1104.

**Legislative history of Law 6-42.** — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on

Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

§ 9-1213.05. Failure to remove.

In case the owner, agent, or other person or persons in control of the property along which such fence, barrier, or obstruction unlawfully exists cannot be found within 5 days after the issue of such notice, the Mayor of the District of Columbia shall publish such notice twice a week for 2 successive weeks in 1 daily newspaper of general circulation published in the District of Columbia. If within 5 days after the last publication of said notice the fence, barrier, or obstruction therein described be not removed, the Inspector of Buildings of said District shall immediately cause such fence, barrier, or obstruction to be removed, and the expense of such removal shall be paid out of the Assessment and Permit Fund; and the cost of such removal, together with the cost of said advertising, shall be assessed against said property and collected as general taxes in said District are assessed and collected; and the funds from which said payments are made shall be reimbursed from such collections.

(July 8, 1898, 30 Stat. 725, ch. 640, § 5.)

**Prior Codifications.** — 1981 Ed., § 7-805. 1973 Ed., § 7-1105.

**Editor's notes.** — Department of Inspections abolished: The Department of Inspections was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 55 of the Board of Commissioners, dated June 30, 1953, and amended August 13, 1953, and December 17, 1953, established under the direction and control of a Commissioner, a Depart-

ment of Licenses and Inspections headed by a Director. The Order set out the purpose, organization, and functions of the new Department. The Order provided that all of the functions and positions of the following named organizations were transferred to the new Department of Licenses and Inspections: The Department of Inspections including the Engineering Section, the Building Inspection Section, the Electrical Section, the Elevator Inspection Section, the Fire Safety Inspection Section, the Plumbing Inspection Section, the Smoke and Boiler In-

spection Section, and the Administrative Section, and similarly the Department of Weights, Measures and Markets, the License Bureau, the License Board, the License Committee, the Board of Special Appeals, the Board for the Condemnation of Dangerous and Unsafe Buildings, and the Central Permit Bureau. The Order provided that in accordance with the provisions of Reorganization Plan No. 5 of 1952 the named organizations were abolished. Functions vested in the Department of Licenses and Inspection by Reorganization Order No. 55 were transferred to the Director of the Department of Economic Development by Commissioner's Order No. 69-96, dated March 7, 1969. The Department of Economic Development was replaced by the Department of Licenses, Investigation and Inspections by Mayor's Order No. 78-42, dated February 17, 1978.

**Change in Government.** — This section originated at a time when local government

powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### *Subchapter VIII. Make a Difference Selection Committee.*

#### **§ 9-1215.01. Establishment of the Make a Difference Selection Committee.**

(a) There is established in the District of Columbia the Make a Difference Selection Committee ("Committee") constituted for the purpose of selecting nominees for recognition as humanitarians working in the public interest.

(b) The Committee shall consist of 9 members, with 3 ex-officio members and 6 members appointed by the Mayor.

(c) Members of the Committee shall serve for as long as they continue to satisfy the qualifications for membership. The composition of the Committee shall be as follows:

(1) The Director of the District of Columbia Office of Planning, or his or her designee;

(2) The Director of the Department of Public Works, or his or her designee;

(3) The Chairperson of the Board of Directors or the President of the Make a Difference Foundation;

(4) Three members of the Board of Directors of the Make a Difference Foundation who reside or work in the District of Columbia; and

(5) Three residents of the District of Columbia of which 2 shall be Mayoral appointees and the remaining member shall be appointed by the Council.

(d) The Mayor shall choose a chairperson of the Committee, and the members of the Committee shall elect from their membership a vice-chairperson and other officers as deemed necessary.

(e) Members of the Committee shall serve without compensation and shall not be reimbursed for expenses incurred while carrying out their duties pursuant to this subchapter.

(f) The Mayor shall submit the names of a majority of the nominees of the Committee to the Council within 60 days April 30, 1998.



(g) Vacancies on the Committee shall be filled in the same manner as the original appointments were made.

(h) A majority of the Committee shall constitute a quorum for the purpose of conducting business.

(Apr. 30, 1998, D.C. Law 12-98, § 2, 45 DCR 1519; June 12, 1999, D.C. Law 12-285, § 4(g), 46 DCR 1355; Apr. 12, 2000, D.C. Law 13-91, § 141, 47 DCR 520.)

**Prior Codifications.** — 1981 Ed., § 7-231.

**Effect of amendments.** — D.C. Law 13-91, in subsec. (b), substituted “consist” for “consists”.

**Emergency legislation.** — For temporary amendment of section, see § 4(g) of the Confirmation Emergency Amendment Act of 1999 (D.C. Act 13-25, March 15, 1999, 46 DCR 2971).

For temporary (90-day) amendment of section, see § 4(g) of the Confirmation Act Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-92, June 4, 1999, 46 DCR 5330).

**Legislative history of Law 12-98.** — Law 12-98, the “Make a Difference Selection Committee Establishment Act of 1998,” was introduced in Council and assigned Bill No. 12-90, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on November 4, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 26, 1998, it was assigned Act No. 12-272 and transmitted to

both Houses of Congress for its review. D.C. Law 12-98 became effective on April 30, 1998.

**Legislative history of Law 12-285.** — Law 12-285, the “Confirmation Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-261. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Vetoed by the Mayor on December 29, 1998, Council overrode the veto on January 5, 1999, and the Bill was assigned Act No. 12-622 and transmitted to both Houses of Congress for its review. D.C. Law 12-285 became effective on June 12, 1999.

**Legislative history of Law 13-91.** — Law 13-91, the “Technical Amendments Act of 1999,” was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

## § 9-1215.02. Committee duties.

(a) The Committee shall accept nominations for honorees from the District of Columbia and any state or territory of the United States.

(b) The Committee shall select from the nominations received, persons to be recognized with commemorative markers in sidewalks designated in § 9-1215.06.

(Apr. 30, 1998, D.C. Law 12-98, § 3, 45 DCR 1519.)

**Prior Codifications.** — 1981 Ed., § 7-232.

**Legislative history of Law 12-98.** — For legislative history of D.C. Law 12-98, see His-

torical and Statutory Notes following § 9-1215.01.

## § 9-1215.03. Selection criteria.

(a) No person shall be selected by the Commission to be honored unless that person meets the following criteria:

(1) The person’s contribution must have been made in the public interest, must have materially improved American society, or the environment and must have had a positive effect on a significant number of people in the United States.



(2) The person must have been acting as a private citizen and not as an appointed or elected government official for the acts for which the person is to be recognized.

(3) The person must have undertaken the achievement for which the person is to be recognized outside of his or her normal work assignment, and not for profit.

(4) The person must have been born in the United States or naturalized as a United States citizen.

(b) No person shall be selected for recognition until a minimum of 5 years after the achievement for which the individual is being nominated has elapsed.

(c) The Committee shall not consider the race, color, religion, national origin, sex, or political affiliation of any nominee in making its decision on whether to honor an individual's accomplishments.

(d) There shall be no limit on the number of annual nominees that the Committee may consider for recognition. However, no more than 25 persons may be selected for recognition with a marker in any calendar year.

(e) A nominee must receive a two-thirds majority vote of the Committee members present and voting at a meeting of the Committee.

(f) Nominees approved by the Committee shall be submitted to the Mayor. The Mayor shall transmit the names of nominees by resolution to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays and days of Council recess. If the Council does not approve or disapprove the nominees, in whole or in part, by resolution within this 30-day review period, the nominees shall be deemed disapproved.

(Apr. 30, 1998, D.C. Law 12-98, § 4, 45 DCR 1519; Dec. 9, 2003, D.C. Law 15-51, § 2, 50 DCR 8982.)

**Prior Codifications.** — 1981 Ed., § 7-233.

**Effect of amendments.** — D.C. Law 15-51, in subsec. (d), substituted "25" for "10".

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Make a Difference Temporary Amendment Act of 2000 (D.C. Law 13-230, April 3, 2001, law notification 48 DCR 3472).

For temporary (225 day) amendment of section, see § 2 of Make a Difference Temporary Amendment Act of 2001 (D.C. Law 14-93, March 19, 2002, law notification 49 DCR 2998).

For temporary (225 day) amendment of section, see § 2 of Make a Difference Temporary Amendment Act of 2002 (D.C. Law 14-265, March 27, 2003, law notification 50 DCR 2942).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of the Make a Difference Emergency Amendment Act of 2000 (D.C. Act 13-484, December 18, 2000, 48 DCR 17).

For temporary (90 day) amendment of section, see § 2 of Make a Difference Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-19, March 16, 2001, 48 DCR 2697).

For temporary (90 day) amendment of section, see § 2 of Make a Difference Emergency

Amendment Act of 2001 (D.C. Act 14-178, November 19, 2001, 48 DCR 11060).

For temporary (90 day) amendment of section, see § 2 of Make a Difference Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-307, March 25, 2002, 49 DCR 3410).

For temporary (90 day) amendment of section, see § 2 of Make a Difference Emergency Amendment Act of 2002 (D.C. Act 14-542, December 2, 2002, 49 DCR 11662).

For temporary (90 day) amendment of section, see § 2 of Make a Difference Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-233, November 25, 2003, 50 DCR 10732).

**Legislative history of Law 12-98.** — For legislative history of D.C. Law 12-98, see Historical and Statutory Notes following § 9-1215.01.

**Legislative history of Law 15-51.** — Law 15-51, the "Make a Difference Amendment Act of 2003", was introduced in Council and assigned Bill No. 15-71, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on July 8, 2003,

and September 16, 2003, respectively. Signed by the Mayor on October 6, 2003, it was assigned Act No. 15-164 and transmitted to both

Houses of Congress for its review. D.C. Law 15-51 became effective on December 9, 2003.

### § 9-1215.04. Special trust fund.

(a) There is established a special trust fund to be known as the Make a Difference Trust Fund ("Fund") to receive all money from whatever source derived to carry out the purposes of this subchapter. The Fund shall be operated by the Committee in accordance with generally accepted accounting principles. At no time shall any amount credited to the Fund be transferred to, or lapse into, or be commingled with the General Fund of the District of Columbia, or any other funds or accounts of the District of Columbia.

(b) Monies in the fund may derive from any of the following sources:

- (1) Private donations;
- (2) Federal grants;
- (3) Other funds received by the Committee; and
- (4) Interest or investments earnings on monies deposited in the Fund.

(c) An amount equal to 10% of the cost of each installed marker shall be held in a separate account earmarked for the perpetual maintenance and repair of the commemorative markers.

(d) The Committee shall maintain liability insurance in the amount of \$1,000,000 for markers installed pursuant to this subchapter. The District shall be held harmless for any acts or omissions in the performance of its duties pursuant to the provisions of this subchapter.

(Apr. 30, 1998, D.C. Law 12-98, § 5, 45 DCR 1519.)

**Prior Codifications.** — 1981 Ed., § 7-234.

**Legislative history of Law 12-98.** — For legislative history of D.C. Law 12-98, see His-

torical and Statutory Notes following § 9-1215.01.

### § 9-1215.05. Marker design and installation.

(a) Markers recognizing individuals pursuant to this subchapter shall be made of granite or of another material approved by the Mayor.

(b) The markers shall be of consistent size, no larger than 4 feet by 4 feet and installed at approximately 50 foot intervals according to specifications of the Make a Difference Foundation and approved by the Department of Public Works.

(c) Markers shall be placed flush with the surface of the adjoining sidewalk and shall present no obstacle or danger to pedestrian traffic. The design shall comply with the requirements of 24 DCMR Chapter 11, Downtown Streetscape and shall be consistent with the Comprehensive Plan.

(Apr. 30, 1998, D.C. Law 12-98, § 6, 45 DCR 1519.)

**Prior Codifications.** — 1981 Ed., § 7-235.

**Legislative history of Law 12-98.** — For legislative history of D.C. Law 12-98, see Historical and Statutory Notes following § 9-1215.01.

**Delegation of Authority.** — Delegation of authority under D.C. Law 12-98, the "Make A Difference Selection Committee Establishment Act of 1998", see Mayor's Order 99-193, November 23, 1999 (46 DCR 9972).

**Editor's notes.** — Approval to Install Bronze Commemorative Markers Pursuant to Section 6 of DC Law 12-98, the “Make a Difference Selection Committee Establishment Act of 1998”, see Mayor’s Order 2001-160, October 23, 2001 (48 DCR 10775).

§ 9-1215.06. Marker locations.

Commemorative markers constructed pursuant to this subchapter may be placed in, including, but not limited to, the following locations:

- (1) The North and South sidewalks of G Street, N.W., between 15th Street and 11th Street, N.W.;
- (2) The North and South sidewalks of F Street, N.W., between 15th Street and 11th Street, N.W.;
- (3) The North sidewalks of E Street, N.W., between 14th Street and 11th Street, N.W. and the South sidewalks of E Street, N.W., between 13th Street and 11th Street, N.W.;
- (4) The East sidewalks of 15th Street, N.W., between Pennsylvania Avenue, N.W. and G Street, N.W.;
- (5) The East and West sidewalks of 14th Street, N.W., between Pennsylvania Avenue, N.W., and G Street, N.W.;
- (6) The East sidewalks of 13th Street, N.W., between Pennsylvania Avenue, N.W. and E Street, N.W. and the East and West sidewalks of 13th Street, N.W., between E Street, N.W., and G Street, N.W.;
- (7) The East and West sidewalks of 12th Street, N.W., between Pennsylvania Avenue, N.W., and G Street, N.W.; and
- (8) The East and West sidewalks of 11th Street, N.W., between Pennsylvania Avenue, N.W., and G Street, N.W.

(Apr. 30, 1998, D.C. Law 12-98, § 7, 45 DCR 1519.)

**Section references.** — This section is referenced in § 9-1215.02 and § 9-1215.07.  
**Prior Codifications.** — 1981 Ed., § 7-236.  
**Legislative history of Law 12-98.** — For legislative history of D.C. Law 12-98, see Historical and Statutory Notes following § 9-1215.01.

§ 9-1215.07. Make a Difference Foundation.

- (a) The Make a Difference Foundation (“Foundation”) is a non-profit corporation founded in 1993, incorporated in the Commonwealth of Virginia. The purpose of the Make a Difference Foundation is to promote and encourage the practice of humanitarianism and public interest advocacy by recognizing the achievements of private citizens who work in the public interest.
- (b) Notwithstanding the provisions of subchapter IV of Chapter 2 of this title, the Make a Difference Foundation is authorized to install markers of granite or some other suitable material approved by the Mayor in the sidewalks in the District of Columbia designated in § 9-1215.06. The authority granted pursuant to this subsection is conditioned on the Make a Difference Foundation registering and maintaining registration as a foreign corporation in the District of Columbia.
- (c) The Foundation shall pay all costs associated with constructing, installing, and maintaining the markers installed pursuant to this subchapter.



(d) Markers shall be inscribed with a profile likeness of the individual, a description of the individual's achievements, the date of the individual's birth (and death if then deceased), and may include a quote attributed to the individual.

(e) The Make a Difference Foundation shall have the exclusive right to install markers in sidewalks designated in § 9-1215.06.

(f) Nothing in this subchapter shall be construed to limit the ability of the District of Columbia government to install other monuments within any public space in the District including the region in which the Make a Difference Foundation has the exclusive right to install sidewalk markers.

(Apr. 30, 1998, D.C. Law 12-98, § 8, 45 DCR 1519.)

**Prior Codifications.** — 1981 Ed., § 7-237. torical and Statutory Notes following § 9-1215.01.  
**Legislative history of Law 12-98.** — For legislative history of D.C. Law 12-98, see His-

## § 9-1215.08. Mayor to issue rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to implement the provisions of this subchapter.

(Apr. 30, 1998, D.C. Law 12-98, § 9, 45 DCR 1519.)

**Prior Codifications.** — 1981 Ed., § 7-238.  
**Legislative history of Law 12-98.** — For authority under D.C. Law 12-98, the "Make A Difference Selection Committee Establishment Act of 1998", see Mayor's Order 99-193, November 23, 1999 (46 DCR 9972).  
 legislative history of D.C. Law 12-98, see His-

### *Subchapter IX. Street Closings and Acquisitions.*

#### PART A.

#### COST OF STREET EXTENSIONS.

### § 9-1217.01. Cost of street extension assessed as benefits; assessments for parkways.

The United States shall not bear any part of the cost of the acquisition of land for street extensions, but when the condemnation of any land for such purposes is authorized by law the total cost of the land and the expenses of the condemnation proceedings shall be assessed as benefits; in any case where land is condemned for a parkway, including a street or streets, where such parkway is of considerable length with relation to its width, not less than one-half of the cost of the land including the same fraction of the expenses of the condemnation proceedings shall be assessed as benefits; and in any case where land is condemned for a public park, not less than one-third of the cost of the land including the same fraction of the expenses of the condemnation proceedings shall be assessed as benefits.

(June 26, 1912, 37 Stat. 178, ch. 182.)

**Prior Codifications.** — 1981 Ed., § 7-217. 1973 Ed., § 7-218.

PART B.

REPEALED PROVISIONS.

**§ 9-1217.11. Council authorized to open, extend, or widen streets; damages and costs. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 704, 30 DCR 148 and Aug. 2, 1983, D.C. Law 5-24, § 16, 30 DCR 3341.)

**Prior Codifications.** — 1981 Ed., § 7-201.

**Legislative history of Law 4-201.** — Law 4-201, the “Street and Alley Closing and Acquisition Procedures Act of 1982,” was introduced in Council and assigned Bill No. 4-341, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on November 16, 1982, and December 14, 1982, respectively. Signed by the Mayor on December 28, 1982, it was assigned Act No. 4-285 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 5-24.** — Law 5-24, the “Technical and Clarifying Amendments Act of 1983,” was introduced in Council and assigned Bill No. 5-169, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 1983, and May 24, 1983, respectively. Signed by the Mayor on June 9, 1983, it was assigned Act No. 5-41 and transmitted to both Houses of Congress for its review.

**§§ 9-1217.12 to 9-1217.24. Condemnation proceedings authorized; contents of condemnation petition; public notice of proceedings; service; appointment of guardian ad litem; condemnation jury — Selection; composition; oath; objections to members; hearings; verdict; condemnation of part of plot; assessment of benefits and damages; excess damages and costs; objections to verdict; vacation of verdict; confirmation of verdict; payment of award; assessments made liens; payments; amendment of proceedings; appeal; deposit of award in registry; transfer of title. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 719, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., §§ 7-202 to 7-214.

**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

torical and Statutory Notes following § 9-1217.11.

**§§ 9-1217.25, 9-1217.26. Condemnation for streets through unsubdivided part of plot — Authorized; procedures; appropriations. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 721, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., §§ 7-215, legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-7-216.  
**Legislative history of Law 4-201.** — For 1217.11.

**§§ 9-1217.27, 9-1217.28. Dismissal of proceedings; appropriations authorized. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 723, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., §§ 7-218, legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-7-219.  
**Legislative history of Law 4-201.** — For 1217.11.

**§ 9-1217.29. Assessments for benefits. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 724, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-220, torical and Statutory Notes following § 9-  
**Legislative history of Law 4-201.** — For 1217.11.  
legislative history of D.C. Law 4-201, see His-

*Subchapter X. Alleys and Minor Streets.*

PART A.

CONDEMNATION OF MATERIALS FOR PUBLIC ROADS.

**§ 9-1219.01. Condemnation of materials for making or repairing public roads.**

In any case where materials of any kind shall be deemed necessary for making or repairing a public road, if the proper authorities cannot agree with the owner as to their purchase, such materials may be condemned in the same manner as provided for in this chapter in cases of condemnation of land for the purposes of a public road.

(R.S., D.C., § 267.)



**Prior Codifications.** — 1981 Ed., § 7-331. 1973 Ed., § 7-332.

PART B.

REPEALED PROVISIONS.

§§ 9-1219.11 to 9-1219.18. Mayor authorized to open, extend, widen, or straighten alleys and minor streets; conditions; width of minor streets; closing of alleys rendered useless or unnecessary; closing of existing alley upon dedication of new alley; closing of alley less than 10 feet wide; closing of alley upon erection of building covering two-thirds of square; change of alleyway — petition; recordation of order and plat; title to closed alley; closing of alley upon new use of square. [Repealed].

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 714, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., §§ 7-301 to 7-308.

**Legislative history of Law 4-201.** — Law 4-201, the “Street and Alley Closing and Acquisition Procedures Act of 1982,” was introduced in Council and assigned Bill No. 4-341, which was referred to the Committee on Transporta-

tion and Environmental Affairs. The Bill was adopted on first and second readings on November 16, 1982, and December 14, 1982, respectively. Signed by the Mayor on December 28, 1982, it was assigned Act No. 4-285 and transmitted to both Houses of Congress for its review.

§§ 9-1219.19 to 9-1219.22. Closing of alley upon acquisition by District of abutting property; land owned by District may be set aside for alley purposes; notice of order; hearing; maps. [Repealed].

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 706, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., §§ 7-309 to 7-312.

**Legislative history of Law 4-201.** — For

legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-1219.11.

**§§ 9-1219.23 to 9-1219.28. Condemnation to open, widen, or straighten alleys or minor streets; plats; notice of condemnation; service; condemnation jury; appointment; oath; objection to jurors; hearing; verdict; assessment of benefits where only part of parcel is condemned; objections to verdict; modification or vacation; benefits assessed must equal damages and costs. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 715, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., §§ 7-313 to 7-318. legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-1219.11.  
**Legislative history of Law 4-201.** — For

**§ 9-1219.29. Assessment on all lots, pieces or parcels benefited by opening of alley or minor street or by establishment of building line. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 705, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-319. torical and Statutory Notes following § 9-1219.11.  
**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

**§§ 9-1219.30, 9-1219.31. Awards paid by Treasurer of United States; benefits deducted from damages; assessments made liens; payments; amendments of property description. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 716, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., §§ 7-320, 7-321. legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-1219.11.  
**Legislative history of Law 4-201.** — For

**§ 9-1219.32. Appeal from confirmation of assessment. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 717, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-322. **Legislative history of Law 4-201.** — For

legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-1219.11.

**§ 9-1219.33. Benefit assessments from condemnation for alleys or minor streets. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 727, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-323. torical and Statutory Notes following § 9-1219.11.  
**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

**§§ 9-1219.34 to 9-1219.39. Proceeds of sale of lands paid into Treasury; plats to be made by Surveyor; costs; correcting defects in certain prior proceedings; certain alleys previously opened made valid; certain alleys closed prior to March 3, 1901, unaffected; surplus from sale of land in which United States is interested to be paid into Treasury. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 718, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., §§ 7-324 to 7-329. legislative history of D.C. Law 4-201, see Historical and Statutory Notes following § 9-1219.11.  
**Legislative history of Law 4-201.** — For

**§ 9-1219.40. Costs paid from alley appropriations when proceedings fail. [Repealed].**

Repealed.

(Mar. 9, 1983, D.C. Law 4-201, § 703, 30 DCR 148.)

**Prior Codifications.** — 1981 Ed., § 7-330. torical and Statutory Notes following § 9-1219.11.  
**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

**§ 9-1219.41. Mayor to employ assistant to Corporation Counsel for condemnation proceedings. [Repealed].**

Repealed.

(Mar. 10, 1983, D.C. Law 4-201, § 720, 30 DCR 148.)



## § 9-1219.41

## TRANSPORTATION SYSTEMS

**Prior Codifications.** — 1981 Ed., § 7-332.  
**Legislative history of Law 4-201.** — For legislative history of D.C. Law 4-201, see His-

torical and Statutory Notes following § 9-1219.11.

# **TITLE 10. PARKS, PUBLIC BUILDINGS, GROUNDS, AND SPACE.**

## **SUBTITLE I. PARKS AND PLAYGROUNDS.**

### **Chapter**

1. General Provisions.
2. Recreation Board.
3. Fundraising for Recreational Facilities.
4. Recreation Volunteer Background Check and Screening [Repealed].

## **SUBTITLE II. PUBLIC BUILDINGS AND GROUNDS.**

5. Regulatory Provisions.
- 5A. Department of General Services.
6. Construction of Public Buildings.
7. Repairs and Improvements of Public Buildings.
- 7A. Removal of Trees on the Public Land.
8. Sale of Public Lands.
9. Exchange of District-Owned Land.
10. Department of Real Estate Services [Repealed].
- 10A. District Facilities Planning Advisory Committee.

## **SUBTITLE III. USE OF PUBLIC SPACE.**

11. Rental and Utilization of Public Space.
- 11A. Abatement of Dangerous Conditions on Public Space.

## **SUBTITLE IV. SPECIFIC LOCALES.**

12. Washington Convention and Sports Authority.
13. John A. Wilson Building.
14. National Children's Island.
15. Reservation 13.
16. Ballpark Development.
17. Wilson Building and Baseball Stadium Message Boards.
18. Waterfront Park at the Yards.
19. Walter Reed Army Medical Center.

## **SUBTITLE I. PARKS AND PLAYGROUNDS.**

### **CHAPTER 1. GENERAL PROVISIONS.**

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| Sec.  | Sec.  |
| 10-101. Authority to acquire fee title to land subject to limited rights reserved to grantor and to acquire limited | permanent rights in land adjoining park property.<br>10-102. Establishing and making clear title of |

## PARKS AND PUBLIC BUILDINGS

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|--|--|
| <p>Sec.</p> <p>United States to lands or waters of Potomac River, Anacostia River, Eastern Branch, and Rock Creek.</p> <p>10-103. Lease of lands acquired for park, parkway, or playground; term; renewal.</p> <p>10-104. Control of park system; composition thereof.</p> <p>10-105. Power to make and enforce vehicle and traffic regulations.</p> <p>10-106. Jurisdiction and control of street parking.</p> <p>10-107. Small parks at intersections of streets outside original city limits.</p> <p>10-108. Meridian Hill Park.</p> <p>10-109. Montrose Park.</p> <p>10-110. Portion of Water Street authorized to be part of park system.</p> <p>10-111. Transfer of jurisdiction over property between United States and District of Columbia — Authorization.</p> <p>10-112. Transfer of jurisdiction over property between United States and District of Columbia — Existing laws unaffected.</p> <p>10-113. Whitehaven Parkway — Adjustment of boundaries at Huidekoper Place.</p> <p>10-114. Whitehaven Parkway — Exchange of federal property.</p> <p>10-115. Whitehaven Parkway — Exchange authorized with property owners.</p> <p>10-116. Whitehaven Parkway — Plats to be prepared.</p> <p>10-117. Beach Parkway — Exchange of property to extend authorized.</p> <p>10-118. Beach Parkway — Dedication and conveyances of exchanged land.</p> <p>10-119. Beach Parkway — Power of Secretary of Interior to sell not curtailed.</p> <p>10-120. Squares 612 and 613 made part of park system.</p> <p>10-121. Fort Davis and Fort Dupont Parks.</p> <p>10-122. Jurisdiction over reservation 185.</p> <p>10-123. Use of spaces or reservations for widening roadways.</p> <p>10-124. Use of public grounds for playgrounds.</p> <p>10-125. Licenses for temporary structures on reservations used as playgrounds.</p> <p>10-126. Part of Washington Aqueduct may be transferred for playground purposes.</p> <p>10-127. Authority to make rules and regulations for playgrounds and recreation centers.</p> <p>10-128. When authorization by Congress needed for building.</p> <p>10-129. Letters of transfer and acceptance deemed authority for change in maps and for record.</p> <p>10-130. Transfer of jurisdiction — Reservation 32.</p> | <p>Sec.</p> <p>10-131. Transfer of jurisdiction — Reservation 290.</p> <p>10-132. Transfer of jurisdiction — Reservation 8.</p> <p>10-133. Public convenience stations — Establishment; location; control.</p> <p>10-134. Public convenience stations — Authority to make rules, regulations, and charges.</p> <p>10-135. Part of reservation 13 transferred for use as indigent burial ground.</p> <p>10-136. Site of former Georgetown Reservoir.</p> <p>10-137. Authority to make rules and regulations for care of public grounds — Generally.</p> <p>10-137.01. Authority of the Director of the Department of Recreation and Parks to regulate District parks.</p> <p>10-138. Authority to make rules and regulations for care of public grounds — Extension of sidewalks and carriageways.</p> <p>10-139. Public spaces resulting from filling of canals part of park system; exceptions.</p> <p>10-140. Rock Creek Park — Establishment.</p> <p>10-141. Rock Creek Park — Area.</p> <p>10-142. Rock Creek Park — Control; duties of Director; regulations.</p> <p>10-143. Rock Creek Park — Leasing authorized; disposition of proceeds.</p> <p>10-144. Rock Creek Park — Acceptance of dedicated property authorized.</p> <p>10-145. Rock Creek Park — Protection of Rock Creek and its tributaries.</p> <p>10-146. Piney Branch Parkway.</p> <p>10-147. Potomac Park — Establishment.</p> <p>10-148. Potomac Park — Control.</p> <p>10-149. Potomac Park — Restriction on construction of lagoon, etc., or speedway.</p> <p>10-150. Potomac Park — Temporary occupancy by Department of Agriculture.</p> <p>10-151. Potomac Park — Licenses for boat-houses on banks of tidal reservoir.</p> <p>10-152. Parkway connecting Potomac Park with Zoological and Rock Creek Parks — Acquisition of land authorized; reimbursement of costs.</p> <p>10-153. Parkway connecting Potomac Park with Zoological and Rock Creek Parks — Taking lines authorized to be extended.</p> <p>10-154. Connecting parkway to be part of park system.</p> <p>10-155. Anacostia Park.</p> <p>10-156. Glover Parkway and Children's Playground — Acceptance of land authorized.</p> <p>10-157. Glover Parkway and Children's Playground — Part of park system.</p> |
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| <p>Sec.</p> <p>10-158. Theodore Roosevelt Island — Maintenance, administration and development.</p> <p>10-159. Theodore Roosevelt Island — Means of access; appropriations.</p> <p>10-160. Theodore Roosevelt Island — Structures authorized; appropriations.</p> <p>10-161. Theodore Roosevelt Island — Designation.</p> <p>10-162. Public bathing beach authorized.</p> <p>10-163. Bathing pools and beaches — Construction authorized; appropriations.</p> | <p>Sec.</p> <p>10-164. Bathing pools and beaches — Possession, control, and maintenance; fees.</p> <p>10-165. Bathing pools and beaches — Operation; disposition of moneys received.</p> <p>10-166. Division of Park Services.</p> <p>10-166.01. Park Policy and Programs Division.</p> <p>10-167. Crispus Attucks Park indemnification [Not funded].</p> |
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**§ 10-101. Authority to acquire fee title to land subject to limited rights reserved to grantor and to acquire limited permanent rights in land adjoining park property.**

The authority of the National Capital Planning Commission, established by the Act approved April 30, 1926, is hereby enlarged as follows; said Commission is hereby authorized to acquire, for and in behalf of the United States of America, by gift, devise, purchase, or condemnation, in accordance with the provisions of the Act of June 6, 1924, as amended by the Act of April 30, 1926:

(1) Fee title to land subject to limited rights, but not for business purposes, reserved to the grantor; provided, that such reservation of rights shall not continue beyond the life or lives of the grantor or grantors of the fee; Provided further, that in the opinion of said Commission the permanent public park purposes for which control over said land is needed are not essentially impaired by said reserved rights and that there is a substantial saving in cost by acquiring said land subject to said limited rights as compared with the cost of acquiring unencumbered title thereto; and

(2) Permanent rights in land adjoining park property sufficient to prevent the use of said land in certain specified ways which would essentially impair the value of the park property for its purposes; provided, that in the opinion of said Commission the protection and maintenance of the essential public values of said park can thus be secured more economically than by acquiring said land in fee or by other available means; provided further, that all contracts for acquisition of land subject to such limited rights reserved to the grantor and for acquisition of such limited permanent rights in land shall be subject to the approval of the President of the United States.

(Dec. 22, 1928, 45 Stat. 1070, ch. 48, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-101.  
1973 Ed., § 8-103.

**References in text.** — The Act approved April 30, 1926, referred to in the introductory paragraph of this section, means the Act of April 30, 1926, 44 Stat. 374, ch. 198, which amended § 1 of the Act of June 6, 1924, 43 Stat. 463, ch. 270.

The Act of June 6, 1924, referred to in the introductory paragraph of this section, means the Act of June 6, 1924, 43 Stat. 463, ch. 270.

**Transfer of Functions.** — The functions, powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of June 6, 1924, 43 Stat. 463, ch. 270,

§ 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

**Editor's notes.** — Delegation of functions: Authority of the President of the United States under this section to approve contracts for acquisition of land subject to limited rights

reserved to the grantor and for the acquisition of limited permanent rights in land adjoining park property was delegated to the Director of the Office of Management and Budget by § 9(5) of Executive Order No. 11609, July 22, 1971, 36 F.R. 13747.

## § 10-102. Establishing and making clear title of United States to lands or waters of Potomac River, Anacostia River, Eastern Branch, and Rock Creek.

For the purpose of establishing and making clear the title of the United States in and to any part or parcel of land or water in, under, and adjacent to the Potomac River, the Anacostia River, or Eastern Branch, and Rock Creek, including the shores and submerged or partly submerged land, as well as the banks of said waterways, and also the upland immediately adjacent thereto, including made land, flat lands and marsh lands, in which persons and corporations and others may have or pretend to have any right, title, claim, or interest adverse to the complete title of the United States as set forth in an Act entitled "An Act providing for the protection of the interest of the United States in lands and water comprising any part of the Potomac River, the Anacostia River, Eastern Branch, and Rock Creek, and adjacent lands thereto," approved April 27, 1912 (37 Stat. 93), and in order to facilitate the same, by making equitable adjustments of such claims and controversies between the United States of America and such adverse claimants, the Secretary of the Interior is authorized to make and accept, on behalf of the United States, by way of compromise when deemed to be in the public interest such conveyances, including deeds of quitclaim and restrictive and collateral covenants, of the lands in dispute as shall be also approved by the National Capital Planning Commission and the Attorney General of the United States.

(June 4, 1934, 48 Stat. 836, ch. 375.)

**Prior Codifications.** — 1981 Ed., § 8-102. 1973 Ed., § 8-104.

**Transfer of Functions.** — The functions, powers and duties of the National Capital Park and Planning Commission were transferred to

the National Capital Planning Commission by the Act of June 6, 1924, 43 Stat. 463, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

### CASE NOTES

#### **In general.**

The United States, under the cession from Maryland and by virtue of powers surrendered by the states under the Constitution, may exercise their discretion in use of portion of land below high water of Anacostia river in District of Columbia in the public right of fishing, or in the promotion of commerce and navigation. *U.S. v. Belt*, 142 F.2d 761, 1944 U.S. App. LEXIS 4330 (1944).

Where Maryland ceded District of Columbia territory to the United States and act of ratifi-

cation provided that nothing therein contained should be construed to vest in the United States any right of property or affect rights of individuals otherwise than as transferred by such individuals to the United States, the United States acquired title to the land embraced within the area of the district only by virtue of conveyances made by the former owners. *Acts Md.1788*, c. 46; *Acts Md.1791*, c. 45; *Acts Md.1793*, c. 58; *Act July 16, 1790*, 1 Stat. 130. *U.S. v. Belt*, 142 F.2d 761, 1944 U.S. App. LEXIS 4330 (1944).

On establishment of District of Columbia, the United States succeeded to Maryland's right of regulation of riparian rights of proprietors of lots along Anacostia river so that the common-law rights of riparian owners, within the limits of the District, are subject to change and modification by act of Congress to the same extent and with the same limitations that change or modification might have been made by Maryland while the land was within its boundaries. Acts Md.1788, c. 46; Acts Md.1791, c. 45; Acts Md.1793, c. 58; Act July 16, 1790, 1 Stat. 130. U.S. v. Belt, 142 F.2d 761, 1944 U.S. App. LEXIS 4330 (1944).

Where Maryland ceded District of Columbia territory to United States and ratifying act provided that returned parcels were to be held according to the legal import of assignments or conveyances made by commissioners to the extent that United States reconveyed land, which had been acquired by the United States, to former owners in fee, the latter reacquired title against the world. Acts Md.1788, c. 46, Acts Md.1791, c. 45; Acts Md.1793, c. 58; Act July 16, 1790, 1 Stat. 130. U.S. v. Belt, 142 F.2d 761, 1944 U.S. App. LEXIS 4330 (1944).

### § 10-103. Lease of lands acquired for park, parkway, or playground; term; renewal.

The Administrator of General Services is authorized, subject to the approval of the National Capital Planning Commission, to lease, for a term not exceeding 5 years, and to renew such lease, subject to such approval, for an additional term not exceeding 5 years, pending need for their immediate use in other ways by the public, and on such terms as the Administrator shall determine, land or any existing building or structure on land acquired for park, parkway, or playground purposes.

(Dec. 22, 1928, 45 Stat. 1070, ch. 48, § 2.)

**Prior Codifications.** — 1981 Ed., § 8-103. 1973 Ed., § 8-105.

**Transfer of Functions.** — The functions, powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of June 6, 1924, 43 Stat. 463, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan

No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

### § 10-104. Control of park system; composition thereof.

(a) The park system of the District of Columbia is placed under the exclusive charge and control of the Director of the National Park Service, under such regulations as may be prescribed by the President of the United States.



(b) The said park system shall be held to comprise; (1) all public spaces laid down as reservations on the map of 1894 accompanying the annual report for 1894 of the officer in charge of public buildings and grounds; (2) all portions of the space in the streets and avenues of the said District, after the same shall have been set aside by the Council of the District of Columbia for park purposes; provided, that no areas less than 250 square feet between sidewalk lines shall be included within the said park system, and no improvements shall be made in unimproved public spaces in streets between building lines or building lines prolonged until the outlines of such portions as are to be improved as parks shall have been laid out by the Council of the District of Columbia; and provided further, that the said Director is authorized temporarily to turn over the care of any of the parking spaces included in clauses (1) and (2) of this subsection, to private owners of adjoining lands under such regulations as he may prescribe and with the condition that the said private owners shall pay special assessments for improvements contiguous to such parking, under the same regulations as are or may be prescribed for private lands; and provided further, that the Council of the District of Columbia is authorized and directed to denominate portions of streets in the District of Columbia as business streets and to authorize the use, on such portions of streets, for business purposes by abutting property owners, under such general regulations as said Council may prescribe, of so much of the sidewalk and parking as may not be needed, in the judgment of said Council, by the general public, under the following conditions, namely:

(1) Wherein a portion of a street not already denominated a business street a majority of a frontage not less than 3 blocks in length is occupied and used for business purposes; and

(2) Where a portion of a street has already been denominated a business street, and there exists adjoining such portion a block or more whose frontage is occupied and used for business purposes.

(July 1, 1898, 30 Stat. 570, ch. 543, § 2; Feb. 2, 1904, 33 Stat. 10, ch. 89; Apr. 14, 1906, 34 Stat. 112, ch. 1622; Feb. 26, 1925, 43 Stat. 983, ch. 339, § 3.)

**Cross references.** — Driving on footways, penalty, see § 22-1318.

Public roads and bridges, jurisdiction, see § 9-101.02.

Transfer of National Children's Island, see § 10-1404.

**Section references.** — This section is referenced in § 10-129, § 10-137, § 10-138, § 10-142, § 10-146, § 10-154, and § 10-1404.

**Prior Codifications.** — 1981 Ed., § 8-104.

1973 Ed., § 8-108.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such

Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in

buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(179) of Reorganization Plan No. 3 of 1967 (see Reor-

ganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### In general.

Creation of District of Columbia Public Utilities Commission, predecessor of Washington Metropolitan Area Transit Commission was not intended to interfere with exclusive charge and control of District Park System theretofore committed to predecessor of National Park Service. Act Sept. 15, 1960, Tit. 2, art. 12, § 15, 74 Stat. 1031; Act Mar. 12, 1968, Tit. 1, § 104, 82 Stat. 43. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Com.*, 393 U.S. 186, 89 S. Ct. 354, 21 L. Ed. 2d 334, 1968 U.S. LEXIS 2907 (U.S. Dist. Col. 1968).

Congress, in creating Washington Metropolitan Area Transit Commission, did not disturb exclusivity of control by Secretary of Interior over Capitol Mall either by extinguishing entirely his power to contract for transportation services or by burdening his concessionaire with two separate agencies engaged in regulating precisely same aspects of its conduct. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Com.*, 393 U.S. 186, 89 S. Ct. 354, 21 L. Ed. 2d 334, 1968 U.S. LEXIS 2907 (U.S. Dist. Col. 1968).

Transit system's franchise did not give it absolute monopoly of sightseeing service on Capitol Mall and did not protect system against competition from concessionaire acting under contract with Secretary of Interior. Act July 24, 1956, Tit. 1, pt. 1, §§ 1, 3, 6, 70 Stat. 598; D.C. Code § 8-108. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Com.*, 393 U.S. 186, 89 S. Ct. 354, 21 L. Ed. 2d 334, 1968 U.S. LEXIS 2907 (U.S. Dist. Col. 1968).

Secretary of Interior was free to enter contract with concessionaire to conduct bus tours on Capitol Mall, and is free to exclude traffic from Mall altogether or to exclude any carrier licensed or instructed by Washington Metropol-

itan Area Transit Commission. 16 U.S.C. §§ 1, 17b, 20. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Com.*, 393 U.S. 186, 89 S. Ct. 354, 21 L. Ed. 2d 334, 1968 U.S. LEXIS 2907 (U.S. Dist. Col. 1968).

Concessionaire under contract with Secretary of Interior to conduct bus tours of Capitol Mall could operate without certificate of convenience and necessity from Washington Metropolitan Area Transit Commission. 16 U.S.C. §§ 1, 17b, 20-20g; D.C. Code §§ 8-108, 8-109, 8-144, 40-613; Act Feb. 26, 1925, 43 Stat. 983; Act Sept. 15, 1960, Tit. 2, art. 12, §§ 1(a) (2), 3, 4(b), (d)(1), (e), (i), 6, 10, 15, 74 Stat. 1031; Act Mar. 12, 1968, Tit. 1, § 104, 82 Stat. 43. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Com.*, 393 U.S. 186, 89 S. Ct. 354, 21 L. Ed. 2d 334, 1968 U.S. LEXIS 2907 (U.S. Dist. Col. 1968).

"Police power" is vague term which embraces almost infinite variety of subjects, and is broad enough to embrace full range of power of Secretary of Interior over Capitol Mall. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Com.*, 393 U.S. 186, 89 S. Ct. 354, 21 L. Ed. 2d 334, 1968 U.S. LEXIS 2907 (U.S. Dist. Col. 1968).

National Visitor Facilities Center Act section authorizing Secretary of the Interior to provide certain kinds of transportation services between federal areas within the District of Columbia and further placing such services under Secretary's sole and exclusive control was intended to insulate concessionaire's operations from local regulation but was not intended to shield concessionaire itself from local informational requirements, and thus Secretary's exclusive control over shuttle service precluded application of local District of Columbia laws relating to vehicle registration and inspection and tour guide licensing but did not preclude



application of local laws relating to certification of foreign corporations. National Visitor Center Facilities Act of 1968, § 105 as amended 40 U.S.C. § 804; D.C. Code §§ 29-933, 40-102, 40-201, 47-2338. *United States v. District of Columbia*, 571 F.2d 651, 1977 U.S. App. LEXIS 5448 (C.A.D.C. 1977).

This section applies to the District's actions in transferring jurisdiction and control over certain portions of a parkway at issue rather than a closing under the Street Readjustment Act. *Tenley & Cleveland Park Emergency Comm. v. District of Columbia*, 115 WLR 1973 (Super. Ct. 1987).

## § 10-105. Power to make and enforce vehicle and traffic regulations.

The Director of the National Park Service is authorized and empowered to make and enforce all regulations for the control of vehicles and traffic, and limiting the speed thereof on roads, highways, and bridges within the public grounds in the District of Columbia, under his control, subject to the penalties prescribed in the Act entitled "An Act regulating the speed of automobiles in the District of Columbia, and for other purposes," approved June 29, 1906.

(June 5, 1920, 41 Stat. 898, ch. 235, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-105. 1973 Ed., § 8-109.

**References in text.** — The Act entitled "An Act regulating the speed of automobiles in the District of Columbia, and for other purposes," approved June 29, 1906, referred to at the end of this section, was repealed by the Act of March 3, 1925, 43 Stat. 1125, ch. 446, § 16(a).

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3,

§§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

### CASE NOTES

#### In general.

Concessionaire under contract with Secretary of Interior to conduct bus tours of Capitol Mall could operate without certificate of convenience and necessity from Washington Metropolitan Area Transit Commission. 16 U.S.C. §§ 1, 17b, 20-20g; D.C. Code §§ 8-108, 8-109, 8-144, 40-613; Act Feb. 26, 1925, 43 Stat. 983; Act Sept. 15, 1960, Tit. 2, art. 12, §§ 1(a) (2), 3, 4(b), (d)(1), (e, i), 6, 10, 15, 74 Stat. 1031; Act Mar. 12, 1968, Tit. 1, § 104, 82 Stat. 43. *Universal Interpretive Shuttle Corp. v. Washington*

*Metropolitan Area Transit Com.*, 393 U.S. 186, 89 S. Ct. 354, 21 L. Ed. 2d 334, 1968 U.S. LEXIS 2907 (U.S. Dist. Col. 1968).

Creation of District of Columbia Public Utilities Commission, predecessor of Washington Metropolitan Area Transit Commission was not intended to interfere with exclusive charge and control of District Park System theretofore committed to predecessor of National Park Service. Act Sept. 15, 1960, Tit. 2, art. 12, § 15, 74 Stat. 1031; Act Mar. 12, 1968, Tit. 1, § 104, 82 Stat. 43. *Universal Interpretive Shuttle Corp.*



v. Washington Metropolitan Area Transit Com., 393 U.S. 186, 89 S. Ct. 354, 21 L. Ed. 2d 334, 1968 U.S. LEXIS 2907 (U.S. Dist. Col. 1968).

Congress, in creating Washington Metropolitan Area Transit Commission, did not disturb exclusivity of control by Secretary of Interior over Capitol Mall either by extinguishing entirely his power to contract for transportation services or by burdening his concessionaire with two separate agencies engaged in regulating precisely same aspects of its conduct. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Com.*, 393 U.S. 186, 89 S. Ct. 354, 21 L. Ed. 2d 334, 1968 U.S. LEXIS 2907 (U.S. Dist. Col. 1968).

District of Columbia regulations governing licensing of tour guides may not be applied to tour guides employed by concessionaire which provides interpretive tour services under contract with the Secretary of the Interior since tour guide services are clearly part of interpretive transportation operations that concessionaire performs for the Secretary and as such are within the sole and exclusive control of the Secretary, who may set whatever qualifications

for tour guides he deems appropriate and enforce them through his contract with concessionaire. *National Visitor Center Facilities Act of 1968*, § 105 as amended 40 U.S.C. § 804; D.C. Code § 47-2338. *United States v. District of Columbia*, 571 F.2d 651, 1977 U.S. App. LEXIS 5448 (C.A.D.C. 1977).

Secretary of Interior had exclusive authority to regulate interpretive tour service operated under contract with Department of Interior, and service therefor was immune from enforcement of District of Columbia licensing and registration requirements. 18 U.S.C. § 1442(a)(1); Fed. Rules Civ. Proc. rule 19, 18 U.S.C.; *National Visitor Center Facilities Act of 1968*, §§ 101-301, 105, 105 note, 106, 201, 202(a) as amended 40 U.S.C. §§ 801-831, 804, 804 note, 805, 821, 822(a); D.C. Code §§ 8-108, 8-109, 29-933, 40-102, 40-201 et seq., 47-2338; 16 U.S.C. §§ 20-20g. *District of Columbia v. Landmark Services, Inc.*, 416 F. Supp. 559, 1976 U.S. Dist. LEXIS 14319 (1976), modified by 571 F.2d 651, 187 U.S. App. D.C. 217, 1977 U.S. App. LEXIS 5448 (1977).

## § 10-106. Jurisdiction and control of street parking.

The jurisdiction and control of the street parking in the streets and avenues of the District of Columbia is transferred to and vested in the Council of the District of Columbia.

(July 1, 1898, 30 Stat. 570, ch. 543, § 1.)

**Cross references.** — Traffic and parking laws, see § 50-2201.03 et seq.

**Section references.** — This section is referenced in § 10-129, § 10-137, and § 10-138.

**Prior Codifications.** — 1981 Ed., § 8-106. 1973 Ed., § 8-110.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see *Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization* in Volume 1). Section 402(180) of *Reorganization Plan No. 3 of 1967* (see *Reorganization Plans* in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The *District of Columbia Self-Government and Governmental Reorganization Act*, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-107. Small parks at intersections of streets outside original city limits.

Public parks acquired by the condemnation of small park areas at the intersections of streets outside the limits of the original City of Washington, shown on the map on file showing areas surrounded by streets, in the Office of the Mayor of the District of Columbia, shall become a part of the park system

of the District of Columbia and be under the control of the Director of the National Park Service.

(Mar. 4, 1913, 37 Stat. 971, ch. 150, § 1; July 21, 1914, 38 Stat. 550, ch. 191; Aug. 1, 1914, 38 Stat. 625, ch. 223, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-107. 1973 Ed., § 8-111.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with re-

spect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-108. Meridian Hill Park.

Meridian Hill Park is a part of the park system of the District of Columbia, under the control of the Director of the National Park Service.

(June 25, 1910, 36 Stat. 700, ch. 383, § 36.)

**Prior Codifications.** — 1981 Ed., § 8-108. 1973 Ed., § 8-112.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his func-

tions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act.



All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were with certain ex-

ceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

## § 10-109. Montrose Park.

Montrose Park is a part of the park system of the District of Columbia, under the control of the Director of the National Park Service.

(Mar. 2, 1911, 36 Stat. 1006, ch. 192.)

**Prior Codifications.** — 1981 Ed., § 8-109. 1973 Ed., § 8-113.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. 1, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all func-

tions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

## § 10-110. Portion of Water Street authorized to be part of park system.

The Mayor of the District of Columbia is authorized to close upper Water Street, between Twenty-second and Twenty-third Streets, Northwest, lying north of Potomac Park and south of square 62; provided, that the consent in writing of the owners of three-fourths of all private property on the south side of square 62 is first had and obtained; and upon the closing of said street between the limits named the Mayor of the District of Columbia is authorized to transfer the land contained in the bed of said street to the Director of the National Park Service, as part of the park system of the District of Columbia; provided further, that the said Mayor is authorized to enter upon said closed area at all times for the purpose of maintenance and repair of all existing sewers and sewer appurtenances.

(May 13, 1932, 47 Stat. 154, ch. 180, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-110. 1973 Ed., § 8-114.

**Transfer of Functions.** — The functions of the Director of the National Park Service relat-

ing to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. 1, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers



of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain ex-

ceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-111. Transfer of jurisdiction over property between United States and District of Columbia — Authorization.

Federal and District authorities administering properties within the District of Columbia owned by the United States or by the said District are authorized to transfer jurisdiction over parts or all of such properties among or between themselves for purposes of administration and maintenance under such conditions as may be mutually agreed upon; provided, that prior to the consummation of any transfer hereunder such proposed transfer shall be recommended by the National Capital Planning Commission; provided further, that the Mayor shall submit to the Council for approval by resolution any proposed transfer of jurisdiction of property pursuant to this section; provided further, that all such transfers and agreements shall be reported to Congress by the District authorities concerned.

(June 6, 1924, ch. 270, § 9; May 20, 1932, 47 Stat. 161, ch. 197, § 1; July 19, 1952, 66 Stat. 790, ch. 949, § 1; Aug. 30, 1954, 68 Stat. 967, ch. 1076, § 1(20); May 16, 1995, D.C. Law 10-255, § 11, 41 DCR 5193.)

**Cross references.** — Acquisition of transfer property, see § 9-101.18.

Federal property, jurisdiction of District laws and regulations, see § 5-133.05.

Reversion of leases, see § 6-321.05.

**Section references.** — This section is referenced in § 9-101.18, § 10-112, and § 24-261.05.

**Prior Codifications.** — 1981 Ed., § 8-111. 1973 Ed., § 8-115.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Transfer of Jurisdiction Over Georgetown Waterfront Park for Public Park and Recreational Purposes, S.O. 84-230, Temporary Act of 2000 (D.C. Law 13-109, May 9, 2000, law

notification 47 DCR 4346).

For temporary (225 day) amendment of section, see § 2 of Transfer of Jurisdiction of Reservation 19 and 124 Temporary Act of 2002 (D.C. Law 14-223, March 25, 2003, law notification 50 DCR 2736).

**Emergency legislation.** — For temporary (90-day) clarification of an earlier resolution, see § 2 of the Transfer of Jurisdiction over Georgetown Waterfront Park for Public Park and Recreational Purposes, S.O. 84-230, Emergency Act of 1999 (D.C. Act 13-252, January 27, 2000, 47 DCR 825).

For temporary (90 day) transfer of jurisdiction, see § 3 of Closing of Portions of Virginia Avenue, S.E., K Street, S.E., L Street, S.E., and 7th Street, S.E., and Transfer of Jurisdiction or Reservations 19 and 124, S.O. 02-2677, Emergency Act of 2002 (D.C. Act 14-609, January 7, 2003, 50 DCR 699).

For temporary (90 day) transfer of jurisdiction, see § 2 of Transfer of Jurisdiction of Reservation 19 and 124 Emergency Act of 2002 (D.C. Act 14-452, July 23, 2002, 49 DCR 7891).

For temporary (90 day) transfer of jurisdiction, see § 2 of Transfer of Jurisdiction of Reservation 19 and 124 Congressional Review Emergency Act of 2002 (D.C. Act 14-519, October 24, 2002, 49 DCR 10507).

For temporary (90 day) transfer of jurisdiction, see § 4 of Modifications to the Permanent System of Highways and Designation of Water Lily Lane, N.E., and Cassell Place, N.E., S.O. 07-3090, and Transfer of Jurisdiction of Portions of Parcel 170/27 and Parcel 170/28, Emergency Act of 2009 (D.C. Act 18-173, August 3, 2009, 56 DCR 6636).

For temporary (90 day) addition, see § 1221 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 1221 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-255.** — Law 10-255, the “Technical Amendments Act of 1994,” was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

**Legislative history of Law 14-271.** — Law 14-271, the “Closing of Portions of Virginia Avenue, S.E., K Street, S.E., L Street, S.E., and 7th Street, S.E., and Transfer of Jurisdiction of Reservation 19 and 124, S.O. 02-2677, Act of 2002,” was introduced in Council and assigned

Bill No. 14-836, and was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 3, 2002, and December 17, 2002, respectively. Signed by the Mayor on January 7, 2003, it was assigned Act No. 14-583 and transmitted to both Houses of Congress for its review. D.C. Law 14-583 became effective on April 2, 2003.

**Short title.** — Short title: Section 1220 of D.C. Law 18-111 provided that subtitle W of title I of the act may be cited as the “Approval of Change in Use of Certain Properties Formerly Titled in the United States Government Act of 2009”.

**Delegation of Authority.** — Delegation of Authority to the Deputy Mayor for Planning and Economic Development to Execute Certain Documents with Respect to a portion of Fort Dupont Park, see Mayor’s Order 2011-198, December 23, 2011 (58 DCR 11502).

**Resolutions.** — Resolution 13-684, the “African-American Civil War Memorial Transfer of Jurisdiction Resolution of 2000”, was approved effective November 8, 2000.

Resolution 14-375, the “Transfer of Jurisdiction of the D.C. General Hospital Campus and Old Jail Site Resolution of 2002”, was approved effective March 5, 2002.

Resolution 15-287, the “Transfer of Jurisdiction of Part of U.S. Reservation 357 for the Mayor’s Official Residence Resolution of 2003”, was approved effective November 4, 2003.

Resolution 15-370, the “Transfer of Jurisdiction of Lot 812 in Square 391, Lot 811 in Square S 439 and Lot 820 in Square 472 Approval Resolution of 2003”, was approved effective December 16, 2003.

Resolution 15-519, the “Transfer of Jurisdiction of the New York Avenue Animal Shelter Expansion Site Resolution of 2004”, was approved effective May 4, 2004.

Resolution 15-763, the “Transfer of Jurisdiction of a Portion of Square 1171 Approval Resolution of 2004”, was approved effective December 7, 2004.

Resolution 16-443, the “Transfer of Jurisdiction Over a Portion of U.S. Reservation 475, Fort Mahan Park Approval Resolution of 2006”, was approved effective January 4, 2006.

Resolution 18-537, the “Transfer of Jurisdiction Over a Portion of U.S. Reservation 495 and Change in Purpose of a Previously Transferred Portion of U.S. Reservation 495 Approval Resolution of 2010”, was approved effective July 13, 2010.

Resolution 18-538, the “Transfers of Jurisdiction over Portions of U.S. Reservations 334 and 334-I for the Reconfiguration of Columbus Circle, N.E., Approval Resolution of 2010”, was approved effective July 13, 2010.

Resolution 19-143, the “Transfers of Jurisdiction over Portions of U.S. Reservation 542 and Lot 09 in Square 1772 Approval



Resolution of 2011", was approved effective July 12, 2011.

Resolution 19-144, the "Transfers of Jurisdiction over Portions of Reservation 470 and Lot 811 in Square 1759 Approval Resolution of 2011", was approved effective July 12, 2011.

**Editor's notes.** — Transfer of land for highway purposes: Pursuant to Resolution 5-156, the "Transfer of Jurisdiction Over Portions of Land Owned by the Government Printing Office to the District of Columbia for Highway Purposes Resolution of 1983", effective May 10, 1983, the Council accepted the transfer of jurisdiction over portions of lots 884 and 885 in Square 677 from the United States Government Printing Office to the District of Columbia for highway purposes as shown on the plat filed with the Surveyor's Office of the District of Columbia (S.O. 75-158).

Pursuant to Resolution 5-640, the "Transfer of Jurisdiction of Parts of Whitehaven Street, N.W., and Observatory Circle, N.W., and part of Reservation 357 Resolution of 1984," effective April 30, 1984, the Council approved the transfer of jurisdiction from the District of Columbia to the National Park Service, for park purposes, of parts of Whitehaven Street, N.W., and Observatory Circle, N.W., and accepted the transfer of jurisdiction from the National Park Service to the District of Columbia, for highway purposes, of part of Reservation 357, as shown on the Surveyor's plat filed under S.O. 82-227.

Pursuant to Resolution 5-773, the "Transfer of Jurisdiction over part of United States Reservation 500 Resolution of 1984," effective July 10, 1984, the Council accepted the transfer of jurisdiction from the National Park Service of part of United States Reservation 500 for the Metropolitan Police Boys' and Girls' Club, as shown on the plat on file in the Office of the Surveyor of the District of Columbia under S.O. 83-245.

Council approval of transfer of jurisdiction over Georgetown Waterfront park: Pursuant to Resolution 6-284, the "Transfer of Jurisdiction over Georgetown Waterfront Park for Public Park and Recreational Purposes, S.O. 84-230, Resolution of 1985," effective September 10, 1985, the Council approved the transfer of jurisdiction over Georgetown Waterfront Park in Ward 2 to the National Park Service for public park and recreational purposes.

Transfer of jurisdiction over certain property in Fort Lincoln New Town approved: Pursuant to Resolution 6-410, the "Transfer of Jurisdiction over Part of Parcel 173/142 in Fort Lincoln New Town, S.O. 84-285, Resolution of 1985," effective November 5, 1985, the Council approved the transfer for recreational purposes from the United States Department of Housing and Urban Development to the District of Columbia Redevelopment Land Agency of jurisdiction over part of Parcel 173/142 to Fort

Lincoln New Town, as shown on the Surveyor's plat filed under S.O. 84-285.

Encouragement of acquisition of land by federal government: Pursuant to Resolution 8-189, the "National Park Service—Georgetown Branch Rail Right-of-Way Acquisition Resolution of 1990", effective February 2, 1990, the Council encouraged the federal government to acquire the District of Columbia portion of the abandoned rail right-of-way known as the Georgetown Branch.

Transfer of Jurisdiction over Lot 812 in Square 2939, S.O. 89-221, Resolution of 1990: Pursuant to Resolution 8-328, effective January 11, 1991, the Council approved the transfer of jurisdiction from the District of Columbia to the National Park Service of the United States Department of the Interior over Lot 812 in Square 2939, bounded by Quackenbush Street, N.W., Georgia Avenue, N.W., Peabody Street, N.W., and 13th Street, N.W., in Ward 4.

Transfer of Jurisdiction over a Portion of U.S. Reservation 360, S.O. 89-245, Resolution of 1990: Pursuant to Resolution 8-329, effective January 11, 1991, the Council approved the transfer for public street purposes of jurisdiction from the National Park Service of the United States Department of the Interior to the District of Columbia over a portion of U.S. Reservation 360, at the intersection of Virginia Avenue, N.W., and I Street, N.W., in Ward 2.

Transfer of Jurisdiction over Children's Island, S.O. 92-252, Resolution of 1993: Pursuant to Resolution 10-91, effective July 30, 1993, the Council approved the transfer from the National Park Service of the United States Department of the Interior to the District of Columbia jurisdiction over property in the Anacostia River in Ward 6 known as National Children's Island, for public park and recreational purposes.

Transfer of Jurisdiction over a Portion of U.S. Reservation 7, S.O. 90-354, Resolution of 1994: Pursuant to Resolution 10-255, effective January 14, 1994, the Council approved the transfer of jurisdiction, for park purposes, from the District of Columbia to the National Park Service of the United States Department of the Interior over a portion of U.S. Reservation 7, bounded by 4th, E, 5th and F Streets, N.W., in Ward 6.

Transfer of Jurisdiction over a Portion of Square 1183, S.O. 93-81, Resolution of 1994: Pursuant to Resolution 10-448, effective November 18, 1994, the Council approved the transfer of jurisdiction, for park purposes, from the District of Columbia to the National Park Service of the United States Department of the Interior over a portion of Lot 807 in Square 1182, bounded by M Street, N.W., 34th Street, N.W., the Chesapeake and Ohio Canal, and Francis Scott Key Bridge, N.W., in Ward 2.



Transfer of Jurisdiction over a Portion of U.S. Reservation 515, S.O. 92-101, Resolution of 1994: Pursuant to Resolution 10-449, effective November 18, 1994, the Council approved the transfer of jurisdiction, for school and recreational purposes, from the National Park Service of the United States Department of the Interior to the District of Columbia over a portion of U.S. Reservation 515, located adjacent to Murch Elementary School at Reno Road, N.W., and Ellicott Street, N.W., in Ward 3.

Transfer of jurisdiction over District of Columbia Correctional Facility: Section 6(b) of D.C. Law 11-276 provided that notwithstanding this section, the Council of the District of Columbia approves the transfer from the United States government to the District of Columbia of jurisdiction over that portion of Lot 800 of Square 1112 upon which is situated the District of Columbia Correctional Treatment Facility, as shown on a plat to be drawn and filed in the Office of the Surveyor of the District of Columbia.

Transfer of Jurisdiction over a Portion of Independence Avenue, S.W., S.O. 85-96, Resolution of 1996: Pursuant to Resolution 11-207, effective February 6, 1996, the Council approved the transfer of jurisdiction, for park purposes, from the District of Columbia to the National Park Service of the United States Department of the Interior, over a portion of the north side of Independence Avenue, S.W., between 4th Street, S.W., and Maryland Avenue, S.W., in Ward 2.

Transfer of Jurisdiction over a Portion of Parcel 174-15 and Lot 802 in Square 4325, S.O. 85-182, Resolution of 1996: Pursuant to Resolution 11-235, approved March 5, 1996, and effective upon publication on March 15, 1996, Council approved the transfer of jurisdiction, for open space and urban renewal development purposes, from the National Park Service of the United States Department of the Interior to the District of Columbia over a portion of Parcel 17 ¼<sub>15</sub> and Lot 802 in Square 4325 located at the intersection of Bladensburg Road, N.E., and Eastern Avenue, N.E., in Ward 5.

Transfer of Jurisdiction over public land: Section 3 of D.C. Law 14-271 provided: "Pursuant to section 1 of An Act To Authorize the Transfer of Jurisdiction Over Public Land in the District of Columbia, approved May 20, 1932 (47 Stat. 161; D.C. Official Code § 10-111), the Council approves the transfer of jurisdiction of part of U.S. Reservation 19 from the District of Columbia to the U.S. Department of Defense, and the transfer of jurisdiction of U.S. Reservation 124 from the National Park Service of the U.S. Department of the Interior to the U.S. Department of Defense, as shown on the Surveyor's plat filed under S.O. 02-2677, for

the purpose of facilitating construction of a new Marine Corps Residence Quarters Annex."

Transfer of Jurisdiction over public lands: Section 344 of Pub. L. 108-335, 118 Stat. 1350, the District of Columbia Appropriations Act, 2005, provided:

"Sec. 344. Transfer to District of Columbia.

"(a) Transfer of Jurisdiction —

"(1) In general.—Not later than 90 days after the date of enactment of this Act, subject to subsection (b), the Director of the National Park Service (referred to in this section as the 'NPS'), acting on behalf of the Secretary of the Interior, shall transfer jurisdiction to the government of the District of Columbia, without consideration, the property described in paragraph (2).

"(2) Property.—The property referred to in paragraph (1) is —

"(A) a portion of National Park Service land in Anacostia Park, U.S. Reservation 343, Section G, the boundaries of which are the Anacostia River to the west, Watts Branch to the south, Kenilworth Aquatic Gardens to the north, and Anacostia Avenue to the east which includes the community center currently occupied under permit by the District of Columbia known as the 'Kenilworth Parkside Community Center'; and

"(B) all of U.S. Reservation 523.

"(b) Conditions of transfer. —

"(1) Term.—Jurisdiction will be transferred from the NPS to the District of Columbia.

"(2) Condition of transfer.—The transfer of jurisdiction under subsection (a)(1) shall be subject to such terms and conditions, to be included in a Declaration of Covenants to be mutually executed between NPS and the District of Columbia to ensure that the property transferred under that subsection —

"(A) is used only for the provision of public recreational facilities, open space, or public outdoor recreational opportunities; and

"(B) nothing in this Act precludes the District of Columbia from entering into a lease for all or part of the property with a public not-for-profit entity for the management or maintenance of the property.

"(3) Termination. —

"(A) In general.—The transfer under subsection (a)(1) shall terminate if —

"(i) any term or condition of the transfer described in paragraph (2) or contained within the Declaration of Covenants described in paragraph (2) is violated, as determined by the NPS; and

"(ii) the violation is not corrected by the date that is 90 days after the date on which the Mayor of the District of Columbia receives from the NPS a written notice of the violation.

"(B) Determination of correction.—A violation of a term or condition of the transfer under subsection (a)(1) shall be determined to have

been corrected under subparagraph (A)(ii) if, after notification of the violation, the District of Columbia and the NPS enter into an agreement that the NPS considers to be adequate to ensure that the property transferred will be used in a manner consistent with paragraph (2).

“(4) Prohibition of civil actions.—No person may bring a civil action relating to a violation of any term or condition of the transfer described in paragraph (2) before the date that is 90 days after the person notifies the Mayor of the District of Columbia of the alleged violation (including the intent of the person to bring a civil action for termination of the transfer under paragraph (3)).

“(5) Removal of structures; rehabilitation.—The transfer under subsection (a)(1) shall be subject to the condition that, in the event of a termination of the transfer under paragraph (3), the District of Columbia shall bear the cost of removing structures on, or rehabilitating, the property transferred.

“(6) Administration of property.—If the transfer under subsection (a)(1) is terminated under paragraph (3), the property covered by the transfer shall be returned to the NPS and administered as a unit of the National Park System in the District of Columbia in accordance with —

“(A) the Act of August 25, 1916 (commonly known as the ‘National Park Service Organic Act’) (16 U.S.C. 1 et seq.); and

“(B) other laws (including regulations) generally applicable to units of the National Park System.”

Transfer of Jurisdiction over portion of Parcel 170/27 and Parcel 170/28: Section 4 of D.C. Law 18-68 provided:

“Sec. 4. (a) Pursuant to section 1 of An Act to Authorize the Transfer of Jurisdiction Over Public Land in the District of Columbia, ap-

proved May 20, 1932 (47 Stat. 161; D.C. Official Code § 10-111), the Council approves the transfer of jurisdiction from the United States, by the National Park Service, for residential purposes, of that certain land commonly known as undeveloped land generally adjacent to Anacostia Avenue, N.E., and Hayes Street, N.E., and more particularly described as a portion of Parcel 170/27 and Parcel 170/28, containing approximately 203,903 square feet of land area, being the same property as previously transferred for park purposes as part of U.S. Reservation 343G through a transfer of jurisdiction from the District of Columbia to the National Park Service, as shown on that certain plat recorded on October 12, 1950, and in the Office of the Surveyor for the District of Columbia in Book 131 at Page 97 (‘Property’). Approval of this transfer is subject to the restriction that the Property be used for residential purposes in accordance with the plans approved pursuant to Zoning Commission Case No. 06-30.”

Pursuant to Resolution 8-232, the “Transfer of Jurisdiction over Portions of Public Streets Adjacent to the U.S. Navy’s Bellevue Housing Complex, S.O. 87-300, Resolution of 1990”, effective June 22, 1990, the Council approved the transfer from the District of Columbia to the United States Department of the Navy of jurisdiction over portions of Chesapeake Street, S.W., Magazine Road, S.W., and an unnamed public street west of Overlook Avenue, S.W., in Ward 8.

Section 1221 of D.C. Law 18-111 provided: “The use of any property transferred to the District pursuant to the Second Fiscal Year 2010 Budget Request Act, passed on 1st reading on July 31, 2009 (Enrolled version of Bill 18-412), shall not be modified unless the new use is authorized pursuant to District law.”

## CASE NOTES

### In general.

District of Columbia was not liable for injuries pedestrian sustained in slip and fall on sidewalk in front of bus stop in District where property on which pedestrian fell had been transferred to the United States for park purposes, United States conceded ownership and maintenance of area in question, and exercised exclusive jurisdiction over area. D.C. Code 1981, § 8-111. *Lovitt v. District of Columbia*, 942 F. Supp. 618, 1995 U.S. Dist. LEXIS 21374 (1995).

Under statute providing that federal and district authorities administering properties within District of Columbia owned by the United States or by the district are authorized to transfer jurisdiction over parts or all of such properties among or between themselves for

purposes of administration and maintenance, district was authorized to use area which had been acquired by the United States solely for park purposes for bridge approach. D.C. Code § 8-115. *D. C. Federation of Civic Assos. v. Airis*, 275 F. Supp. 540, 1967 U.S. Dist. LEXIS 8628 (D.D.C.1967), reversed by 391 F.2d 478, 129 U.S. App. D.C. 125, 1968 U.S. App. LEXIS 8052 (1968).

Statute providing that federal and district authorities administering properties within District of Columbia owned by the United States or by the district are authorized to transfer jurisdiction over parts or all of such properties among or between themselves for purposes of administration and maintenance would prevail over statute providing there should not be erected on any reservation, park



or public grounds of the United States within the district any building or structure without express authority of Congress if land of United States is transferred to district for use different than that to which it was being put. D.C. Code §§ 8-115, 8-133. *D. C. Federation of Civic Assos. v. Airis*, 275 F. Supp. 540, 1967 U.S. Dist. LEXIS 8628 (D.D.C1967), reversed by 391 F.2d 478, 129 U.S. App. D.C. 125, 1968 U.S. App. LEXIS 8052 (1968).

Where United States transferred parkland to District of Columbia for use as bridge approach, statute, providing that there shall not be erected on any park of the United States within the District of Columbia any building or structure without express authority of Congress, did not apply. D.C. Code §§ 8-115, 8-133. *D. C. Federation of Civic Assos. v. Airis*, 275 F. Supp.

540, 1967 U.S. Dist. LEXIS 8628 (D.D.C1967), reversed by 391 F.2d 478, 129 U.S. App. D.C. 125, 1968 U.S. App. LEXIS 8052 (1968).

Under statute providing that federal and district authorities administering properties within District of Columbia owned by the United States or by the district are authorized to transfer jurisdiction over parts or all of such properties among or between themselves for purposes of administration and maintenance, district and United States had authority to use parklands in connection with construction of three highway projects. D.C. Code § 8-115. *D. C. Federation of Civic Assos. v. Airis*, 275 F. Supp. 540, 1967 U.S. Dist. LEXIS 8628 (D.D.C1967), reversed by 391 F.2d 478, 129 U.S. App. D.C. 125, 1968 U.S. App. LEXIS 8052 (1968).

## § 10-112. Transfer of jurisdiction over property between United States and District of Columbia — Existing laws unaffected.

Nothing in § 10-111 shall be construed to repeal the provisions of any existing law or laws authorizing the transfer of jurisdiction of certain lands between and among federal and District authorities, but all such laws shall remain in full force and effect.

(May 20, 1932, 47 Stat. 162, ch. 197, § 2.)

**Cross references.** — Reversion of leases, see § 6-321.05.

**Prior Codifications.** — 1981 Ed., § 8-112. 1973 Ed., § 8-116.

## § 10-113. Whitehaven Parkway — Adjustment of boundaries at Huidekoper Place.

In order to readjust the boundaries of Whitehaven Parkway at Huidekoper Place and preserve the trees and other natural park values, the Mayor of the District of Columbia is authorized to close, vacate, and abandon for highway and alley purposes the area contained in parcel designated "A," as shown on map filed in the Office of the Surveyor of the District of Columbia and numbered as map 1817, and to transfer said area so closed, vacated, and abandoned to the United States to be under the jurisdiction of the Director of the National Park Service for park purposes.

(Apr. 13, 1934, 48 Stat. 575, ch. 114, § 1.)

**Section references.** — This section is referenced in § 10-116.

**Prior Codifications.** — 1981 Ed., § 8-113. 1973 Ed., § 8-117.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R.

2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and



employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-114. Whitehaven Parkway — Exchange of federal property.

The Mayor of the District of Columbia is authorized to use for street and alley purposes the area comprised within the parcels designated “B,” as shown on map filed in the Office of the Surveyor of the District of Columbia and numbered as map 1817; and the Director of the National Park Service is authorized to make the necessary transfer of said land to the District of Columbia, same to be under the jurisdiction of the said Mayor for street and alley purposes.

(Apr. 13, 1934, 48 Stat. 575, ch. 114, § 2.)

**Cross references.** — Surveyor, see § 1-1301 et seq.

**Prior Codifications.** — 1981 Ed., § 8-114. 1973 Ed., § 8-118.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All func-

tions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the

Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-115. Whitehaven Parkway — Exchange authorized with property owners.

Upon the dedication by the lawful owner or owners of the land contained in the parcel designated “C” and the transfer by plat as provided herein and/or the conveyance by deed of the land contained in the parcel designated “D,” in accordance with map showing said parcels filed in the Office of the Surveyor of the District of Columbia, numbered as map 1817, the said parcel “C” to be dedicated to the District of Columbia for street purposes and the said parcel “D” transferred by plat and/or conveyed by deed to the United States, to be under the jurisdiction of the Director of the National Park Service, then the said Director, with the approval of the Secretary of the Interior, acting for and in behalf of the United States of America, is authorized and directed to transfer by plat as provided herein and/or convey by deed all the land comprised in the parcel designated “E” as shown on said map filed in the Office of the Surveyor of the District of Columbia and numbered as map 1817, said transfer and/or conveyance to be made to the owner or owners making the transfer and/or conveyance of said parcel designated “D” to the United States, such transfers and/or deeds of conveyance to pass title in fee simple to the said land, and any and all of such transfers when duly executed and consummated shall constitute legal conveyances of the parcels herein described to the parties in interest; provided, however, that good and sufficient title, satisfactory to the Mayor of the District of Columbia and the Director of the National Park Service, shall be given with respect to the land contained in said parcels “C” and “D,” respectively; and provided further, that upon the transfer by plat and/or the conveyance by deed of the said parcel designated “E,” as provided herein, the land contained in said parcel shall be subject to assessment and taxation the same in all respects as other private property in the District of Columbia.

(Apr. 13, 1934, 48 Stat. 575, ch. 114, § 3.)

**Prior Codifications.** — 1981 Ed., § 8-115.  
1973 Ed., § 8-119.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers

of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and



employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-116. Whitehaven Parkway — Plats to be prepared.

The Surveyor of the District of Columbia is hereby authorized to prepare the necessary plat or plats showing the parcels of land to be transferred and dedicated in accordance with the provisions of §§ 10-113 to 10-116, with certificates affixed thereon to be signed by the parties in interest making the necessary transfers and dedication, which plat or plats, after being signed by the various interested parties and officials, and approved by the Mayor of the District of Columbia, upon recommendation of the National Capital Planning Commission, shall be recorded upon order of said Mayor in the Office of the Surveyor of the District of Columbia, and said plat or plats and certificates when so recorded shall constitute a legal dedication and legal transfers of the property described for the purposes designated according to the provisions of §§ 10-113 to 10-116.

(Apr. 13, 1934, 48 Stat. 575, ch. 114, § 4.)

**Cross references.** — Surveyor, see § 1-1301 et seq.

**Section references.** — This section is referenced in § 47-812.

**Prior Codifications.** — 1981 Ed., § 8-116. 1973 Ed., § 8-120.

**Transfer of Functions.** — The functions, powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of June 6, 1924, 43 Stat. 463, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commis-

sioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia,



respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-117. Beach Parkway — Exchange of property to extend authorized.

In order to extend Beach Parkway northward to Western Avenue as provided for by the plans of the National Capital Planning Commission for the park system of the District of Columbia and to preserve the flow of water in Rock Creek Park and to extend West Beach Drive to connect Beach Drive and Rock Creek Park with Western Avenue, the Secretary of the Interior is authorized to convey by and on behalf of the United States of America to the owners of parcel 78/5, or to such party or parties as said owner or owners shall designate, the title of the United States in and to a piece of land containing approximately 55,000 square feet at and near the intersection of Western Avenue and West Beach Drive as proposed in accordance with the plan of the permanent system of highways of the District of Columbia, being a part of reservation 339; provided, that the owners of said parcel 78/5 shall furnish the United States of America with a good and sufficient title in fee simple, free of all encumbrances, to that piece of land lying along and east of the center line of West Beach Drive as proposed in accordance with the plan of the permanent system of highways of the District of Columbia, and extending east to the creek immediately north of the present north line of United States reservation 432 and extending north to United States reservation 339 and containing approximately 58,500 square feet; provided further, that the owners of parcel 78/5 dedicate to the District of Columbia for street purposes the west half, 45 feet in width, of West Beach Drive as proposed in accordance with the plan of the permanent system of highways of the District of Columbia, along their property immediately north of the north line of reservation 432.

(Aug. 27, 1935, 49 Stat. 881, ch. 741, § 1.)

**Section references.** — This section is referenced in § 10-118, § 10-119, § 47-2829, and § 47-2862.

**Prior Codifications.** — 1981 Ed., § 8-117. 1973 Ed., § 8-121.

**Transfer of Functions.** — The functions,

powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of June 6, 1924, 43 Stat. 463, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

### § 10-118. Beach Parkway — Dedication and conveyances of exchanged land.

The dedication and transfers provided for in § 10-117 hereof are designated approximately upon plat file numbered 3.9-97 in the files of the National Capital Planning Commission. The dedication and conveyances shall be by proper deed and other instruments containing full legal description by exact survey of the land exchanged and dedicated as provided for by law.

(Aug. 27, 1935, 49 Stat. 881, ch. 741, § 2.)

**Prior Codifications.** — 1981 Ed., § 8-118.

1973 Ed., § 8-122.

**Transfer of Functions.** — The functions, powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by

the Act of June 6, 1924, 43 Stat. 463, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

## § 10-119. Beach Parkway — Power of Secretary of Interior to sell not curtailed.

Nothing in §§ 10-117 to 10-119 shall be construed as curtailing the power of the Secretary of the Interior to sell the remainder of parcel 4 as provided for in Public Law No. 299, 72nd Congress, and should the exchange and dedication as provided for in § 10-117 fail to become effective the Secretary of the Interior is still authorized to sell the entire area of parcel 4 as provided for in that Act.

(Aug. 27, 1935, 49 Stat. 882, ch. 741, § 3.)

**Prior Codifications.** — 1981 Ed., § 8-119. 1973 Ed., § 8-123.

## § 10-120. Squares 612 and 613 made part of park system.

Squares 612 and 613, so called, shall become a part of the park system of the District of Columbia and be under the control of the Director of the National Park Service.

(Apr. 17, 1917, 40 Stat. 10, ch. 3.)

**Prior Codifications.** — 1981 Ed., § 8-120. 1973 Ed., § 8-124.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of

the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

## § 10-121. Fort Davis and Fort Dupont Parks.

The public parks on the sites of Fort Davis and Fort Dupont shall become a part of the park system of the District of Columbia and be under the control of the Director of the National Park Service.

(June 26, 1912, 37 Stat. 179, ch. 182.)

**Prior Codifications.** — 1981 Ed., § 8-121. 1973 Ed., § 8-125.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings

and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

## § 10-122. Jurisdiction over reservation 185.

Control and jurisdiction over reservation 185 is vested in the Mayor of the District of Columbia, said reservation to be used by said District as a property yard; provided, that when in the judgment of the Director of the National Park Service the use of said reservation for park purposes is desirable, the Mayor of the District of Columbia, upon his request, is authorized and directed to retransfer said reservation to his jurisdiction.

(May 18, 1910, 36 Stat. 383, ch. 248.)

**Prior Codifications.** — 1981 Ed., § 8-122. 1973 Ed., § 8-126.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public

Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office



of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia,

respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-123. Use of spaces or reservations for widening roadways.

When, in the judgment of the Mayor of the District of Columbia, the public necessity or convenience requires them to enter upon any of the spaces or reservations under the jurisdiction of the Director of the National Park Service for the purpose of widening the roadway of any street or avenue adjacent thereto or to establish sidewalks along the same, the Director of the National Park Service is authorized to grant the necessary permission upon the application of the Mayor.

(July 1, 1898, 30 Stat. 570, ch. 543, § 4.)

**Section references.** — This section is referenced in § 10-129, § 10-137, and § 10-138.

**Prior Codifications.** — 1981 Ed., § 8-123. 1973 Ed., § 8-127.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in

buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-124. Use of public grounds for playgrounds.

The Director of the National Park Service may authorize the temporary use of the Monument Grounds or ground south of the Executive Mansion or other reservations in the District of Columbia for playgrounds for children and adults, under regulations to be prescribed by him.

(Mar. 3, 1903, 32 Stat. 1122, ch. 1007.)

**Prior Codifications.** — 1981 Ed., § 8-124. 1973 Ed., § 8-128.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all func-

tions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

## § 10-125. Licenses for temporary structures on reservations used as playgrounds.

The Director of the National Park Service is authorized to grant licenses, revocable by him, without compensation, to erect temporary structures upon reservations used as children's playgrounds, under such regulations as he may impose.

(May 27, 1908, 35 Stat. 355, ch. 200, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-125. 1973 Ed., § 8-129.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of

the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.



## § 10-126. Part of Washington Aqueduct may be transferred for playground purposes.

The Chief of Engineers is authorized to transfer for playground purposes the possession, use, and control of all that portion of the land of the Washington Aqueduct adjacent to the Champlain Avenue pumping station and lying outside of the fence around said pumping station existing on August 31, 1918, to the control and jurisdiction of the Mayor of the District of Columbia. Nothing herein shall be construed as affecting the superintendence and control of the Secretary of the Army over the Washington Aqueduct, its rights, appurtenances, and fixtures connected with the same and over appropriations and expenditures therefor as now provided by law.

(Aug. 31, 1918, 40 Stat. 951, ch. 164, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-126.  
1973 Ed., § 8-130.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Government Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-127. Authority to make rules and regulations for playgrounds and recreation centers.

Authority is granted the Mayor of the District of Columbia to make rules and regulations governing the conduct of the municipal playgrounds and recreation centers coming under his control.

(Mar. 3, 1915, 38 Stat. 905, ch. 80.)

**Prior Codifications.** — 1981 Ed., § 8-127.  
1973 Ed., § 8-131.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-128. When authorization by Congress needed for building.

On and after August 24, 1912, there shall not be erected on any reservation,



park, or public grounds, of the United States within the District of Columbia, any building or structure without express authority of Congress.

(Aug. 24, 1912, 37 Stat. 444, ch. 355, § 1.)

**Section references.** — This section is referenced in § 10-1404, § 47-398.01, and § 47-398.02.

**Prior Codifications.** — 1981 Ed., § 8-128. 1973 Ed., § 8-133.

### CASE NOTES

#### In general.

Dedication of park by statute did not imply promise to neighboring landowners, assessed for benefits, that park would be continued in perpetuity. Act Sept. 27, 1890, 26 Stat. 492, 493, §§ 3, 6, and § 1 (40 U.S.C. § 83).

*Reichelderfer v. Quinn*, 53 S.Ct. 177, 1932 U.S. LEXIS 776 (U.S. Dist. Col. 1932).

Land dedicated for public park by municipality inures to benefit of all citizens and is held in trust for benefit of public. *Quinn v. Dougherty*, 30 F.2d 749, 1929 U.S. App. LEXIS 2511 (1929).

## § 10-129. Letters of transfer and acceptance deemed authority for change in maps and for record.

When in accordance with law or mutual legal agreement, spaces or portions of public land are transferred from the jurisdiction of the Director of the National Park Service, as established by §§ 6-404, 10-104, 10-106, 10-123, 10-129 and 10-137, to that of the Mayor of the District of Columbia, or vice versa, the letters exchanged between them of transfer and acceptance shall be sufficient authority for the necessary change in the official maps and for record when necessary.

(July 1, 1898, 30 Stat. 570, ch. 543, § 5.)

**Section references.** — This section is referenced in § 10-137 and § 10-138.

**Prior Codifications.** — 1981 Ed., § 8-129. 1973 Ed., § 8-135.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949,

63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced

by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-130. Transfer of jurisdiction — Reservation 32.

The jurisdiction and control of public reservation numbered 32, bounded by Pennsylvania Avenue, Fourteenth Street, E Street, and Thirteen-and-a-half Street Northwest, in the City of Washington, District of Columbia, is hereby transferred from the Chief of Engineers of the United States Army to the Mayor of the District of Columbia, in order to provide a suitable approach to the new District building to be located fronting said reservation.

(Feb. 10, 1904, 33 Stat. 12, ch. 155.)

**Prior Codifications.** — 1981 Ed., § 8-130. 1973 Ed., § 8-136.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-131. Transfer of jurisdiction — Reservation 290.

The action of the Mayor of the District of Columbia in locating a pound and stable for the Department of Human Services on reservation numbered 290, located along James Creek Canal at the intersection of South Capitol and I Streets Southeast, under the authorization contained in the District Appropriation Act approved March 2, 1911, is ratified and confirmed, and the jurisdiction and control over said reservation is transferred to the Mayor of the District of Columbia; and the title to said reservation shall be in the name of the District of Columbia.

(Mar. 4, 1913, 37 Stat. 962, ch. 150.)

**Prior Codifications.** — 1981 Ed., § 8-131. 1973 Ed., § 8-137.

**Editor's notes.** — Health Department abolished: The Health Department of the District of Columbia, including the office of the head thereof, was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 57 of the Board of Commissioners, dated June 30, 1953, and Reorganization Order No. 52, dated June 30, 1953, combined and

redesignated Organization Order No. 141, dated February 11, 1964, established under the direction and control of a Commissioner, a Department of Public Health headed by a Director, for the purpose of planning, implementing, and directing public health and hospital care programs, and for performing certain other allied medical and paramedical functions. The Anatomical Board was established under the direction and control of the Director of Public Health consisting of members as prescribed in the D. C. Code. Prior to

redesignation, the Ord. abolished the previously existing Health Department, Gallinger Hospital, Glenn Dale Sanatorium, and the Anatomical Board, and transferred their functions and positions to the new Department. The organization of the new Department was set out in the Order. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions stated in Organization Order No. 141 were transferred to the Director of the Department of Human Resources by Commissioner's Order No. 69-96, dated March 7, 1969, as amended by Commissioner's Order No. 70-83, dated March 6, 1970. The Department of Human Resources was replaced by Reorganization Plan No. 2 of 1979, dated February 21, 1980, which Plan established the Department of Human Services.

**Change in Government.** — This section originated at a time when local government

powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-132. Transfer of jurisdiction — Reservation 8.

The jurisdiction and control of such portion of public reservation numbered 8 as may be required for the location and operation of a public convenience station and approaches thereto is hereby transferred from the Chief of Engineers of the United States Army to the Mayor of the District of Columbia, such transfer to take effect from the date of notice by said Mayor to the Chief of Engineers of the United States Army of the portion of said reservation selected, and the Council of the District of Columbia is further authorized to make all necessary rules and regulations for the management of said station and fix the charges to be made for the use thereof.

(May 26, 1908, 35 Stat. 286, ch. 198.)

**Prior Codifications.** — 1981 Ed., § 8-132.  
1973 Ed., § 8-138.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(182) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-133. Public convenience stations — Establishment; location; control.

(a) The Mayor of the District of Columbia is authorized and empowered to construct and establish, in the City of Washington, District of Columbia, 2



public convenience stations, each of the same to afford accommodations for 20 males and 10 females.

(b) The said public convenience stations shall be located on public space to be selected by the said Mayor of the District of Columbia. And the jurisdiction and control of such portion of any public reservation so selected as shall be required for the location of such stations and their approaches is hereby transferred from the Chief of Engineers of the United States Army to the Mayor of the District of Columbia, such transfer to take effect from the date of notice by the said Mayor to the Chief of Engineers of the United States Army of the location of sites of such stations.

(Mar. 3, 1905, 33 Stat. 984, ch. 1414, §§ 1, 2.)

**Section references.** — This section is referenced in § 10-134.

**Prior Codifications.** — 1981 Ed., § 8-133. 1973 Ed., § 8-139.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-134. Public convenience stations — Authority to make rules, regulations, and charges.

Upon the construction and establishment of the public convenience stations referred to in § 10-133 the Council of the District of Columbia is further authorized and empowered to make all necessary rules and regulations for the management of the same, as well as to fix the charge, if any, to be made for the use of these conveniences.

(Mar. 3, 1905, 33 Stat. 984, ch. 1414, § 3.)

**Prior Codifications.** — 1981 Ed., § 8-134. 1973 Ed., § 8-140.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(183) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-135. Part of reservation 13 transferred for use as indigent burial ground.

All of that portion of reservation 13 lying 600 feet east of the east curb line of Nineteenth Street east and south of the south line of B Street south is transferred to the control of the Mayor of the District of Columbia for the purpose of the burial of the indigent dead of the District, to be an addition to the burial grounds of the Washington Asylum.

(Aug. 6, 1890, 26 Stat. 306, ch. 724.)

**Prior Codifications.** — 1981 Ed., § 8-135. 1973 Ed., § 8-141.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-136. Site of former Georgetown Reservoir.

The site of the former Georgetown Reservoir (Wisconsin Avenue, between R Street and Brown Place, Northwest) is transferred to the jurisdiction and control of the Mayor of the District of Columbia.

(Feb. 23, 1931, 46 Stat. 1381, ch. 282.)

**Prior Codifications.** — 1981 Ed., § 8-136. 1973 Ed., § 8-142.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-137. Authority to make rules and regulations for care of public grounds — Generally.

The Director of the National Park Service and the said Mayor of the District of Columbia are authorized to make all needful rules and regulations for the government and proper care of all the public grounds placed by §§ 6-404, 10-104, 10-106, 10-123, 10-129 and 10-137, under their respective charge and control; and to annex to such rules and regulations such reasonable penalties as will secure their enforcement.



(July 1, 1898, 30 Stat. 571, ch. 543, § 6.)

**Section references.** — This section is referenced in § 10-138 and § 10-148.

**Prior Codifications.** — 1981 Ed., § 8-137. 1973 Ed., § 8-143.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in

buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### CASE NOTES

##### In general.

In prosecution for making an obscene and indecent exposure in a public park, refusal to charge that to find defendant guilty it was necessary to find that the exposure was “willful” and “deliberate” was not error, since “will-

ful” and “deliberate” have varied meanings and without some qualifying explanation requested charge would have been misleading. *Davenport v. U.S.*, 56 A.2d 851, 1948 D.C. App. LEXIS 126 (Cr.App. 1948).

### § 10-137.01. Authority of the Director of the Department of Recreation and Parks to regulate District parks.

(a) The Council finds that, in order to protect the public health and safety, environmental and scenic values, natural or cultural resources, equitable allocations and use of District park facilities, and to alleviate conflict among park visitors, it is necessary to implement management responsibilities for District parks.

(b) The Director of the Department may:

- (1) Establish a reasonable schedule of hours for the operation of parks;
- (2) Impose limits, conditions, and restrictions on the public use of parks;



(3) Close all or a portion of a park area to public use or to a specific use or activity; or

(4) Terminate a limit, condition, restriction, or any other decision made pursuant to this subsection.

(c)(1) Except in emergency situations, the Director of the Department shall inform the public of closures, designations, use restrictions or conditions, or the termination or relaxation of such, which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area, adversely affect the park's natural, aesthetic, scenic or cultural values, require a long-term or significant modification in the resource management objectives of the unit, or is of a highly controversial nature, by publishing such changes as rulemaking in the District of Columbia Register and a major Washington, D.C. metropolitan newspaper.

(2) Except in emergency situations, prior to implementing or terminating a restriction, condition, public use limit or closure, the Director of the Department shall prepare a written determination justifying the action. That determination shall set forth the reasons why the restriction, condition, public use limit or closure authorized by subsection (b) of this section has been established, and an explanation of why less restrictive measures will not suffice, or in the case of a termination of a restriction, condition, public use limit or closure previously established under subsection (b) of this section, a determination as to why the restriction is no longer necessary and a finding that the termination will not adversely impact park resources. This determination shall be available to the public upon request.

(d) To implement a public use limit, the Director of the Department may establish a permit, registration, or reservation system. Permits shall be issued in accordance with, or in exception to, the criteria in subsection (b) of this section. Applications for use permits may be sent to the Director of the Department, 30 days in advance of the event, by writing a letter which describes the event including the date, day, starting and ending time of the event, a description of what the event will be, and approximately how many people are expected.

(e) Violating a closure, designation, use or activity restriction or condition, schedule of visiting hours, or public use limit is prohibited. The District of Columbia Metropolitan Police Department may enforce the provisions contained in subsection (b) of this section. Any person violating the provisions of subsection (b) of this section may be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or both.

(July 1, 1898, ch. 543, § 6a, as added Mar. 16, 1995, D.C. Law 10-226, § 2, 42 DCR 1; Apr. 18, 1996, D.C. Law 11-110, § 19, 43 DCR 530.)

**Section references.** — This section is referenced in § 10-301.

**Prior Codifications.** — 1981 Ed., § 8-137.1.

1981 Ed., § 8-137.1.

**Temporary Addition of Section.** — Section 2 of D.C. Law 17-336 added a section to read as follows:

“Sec. 2. Analysis of proposed child day care services and senior citizen programs.

“(a) The Mayor shall submit to the Council a comprehensive analysis of proposed child day care services and senior citizen programs offered by the Department of Parks and Recreation prior to the closing, discontinuing, or

relocating of any child day care or senior citizen program offered by the department.

“(b) The analysis shall include:

“(1) A pedestrian safety and transportation option analysis for participants near proposed, closed, or discontinued locations to the nearest site with comparable services;

“(2) The possible effect, if any, on any federal funding of the closing, discontinuing, or relocating of services and programs; and

“(3) A plan to increase participation in the affected programs and services.”

Section 4(b) of D.C. Law 17-336 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2 of Day Care and Senior Services Emergency Act of 2008 (D.C. Act 17-615, December 19, 2008, 56 DCR 42).

For temporary (90 day) addition, see § 2 of Day Care and Senior Services Congressional Review Emergency Act of 2009 (D.C. Act 18-25, March 16, 2009, 56 DCR 2313).

**Legislative history of Law 10-226.** — Law 10-226, the “Parks Amendment Act of 1994,” was introduced in Council and assigned Bill

No. 10-443, which was referred to the Committee on Public Services and Youth Affairs. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Deemed approved without the signature of the Mayor on December 28, 1994, it was assigned Act No. 10-367 and transmitted to both Houses of Congress for its review. D.C. Law 10-226 became effective on March 16, 1995.

**Legislative history of Law 11-110.** — Law 11-110, the “Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

**References in text.** — Pursuant to Mayor’s Order 2000-20, the agency formerly known as the Department of Recreation and Parks shall be known as the Department of Parks and Recreation.

## § 10-138. Authority to make rules and regulations for care of public grounds — Extension of sidewalks and carriageways.

The application of the rules and regulations prescribed prior to March 4, 1909, or that may be thereafter prescribed by the Director of the National Park Service, under the authority granted by §§ 6-404, 10-104, 10-106, 10-123, 10-129 and 10-137, for the government and proper care of all public grounds placed by that act under the charge and control of the said Director of the National Park Service, is hereby extended to cover the sidewalks around the public grounds and the carriageways of such streets as lie between and separate the said public grounds.

(Mar. 4, 1909, 35 Stat. 994, ch. 299, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-138. 1973 Ed., § 8-144.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3,

§§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both



space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the

Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

## CASE NOTES

### In general.

The Secretary of the Interior is responsible for maintaining national parks and for providing facilities and services for their public enjoyment through concessionaires or otherwise. 16 U.S.C. §§ 1, 17b, 20. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Com.*, 393 U.S. 186, 89 S. Ct. 354, 21 L. Ed. 2d 334, 1968 U.S. LEXIS 2907 (U.S. Dist. Col. 1968).

Secretary of Interior was free to enter contract with concessionaire to conduct bus tours on Capitol Mall, and is free to exclude traffic from Mall altogether or to exclude any carrier licensed or instructed by Washington Metropolitan Area Transit Commission. 16 U.S.C. §§ 1, 17b, 20. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Com.*, 393 U.S. 186, 89 S. Ct. 354, 21 L. Ed. 2d 334, 1968 U.S. LEXIS 2907 (U.S. Dist. Col. 1968).

Concessionaire under contract with Secretary of Interior to conduct bus tours of Capitol Mall could operate without certificate of convenience and necessity from Washington Metropolitan Area Transit Commission. 16 U.S.C. §§ 1, 17b, 20-20g; D.C. Code §§ 8-108, 8-109, 8-144, 40-613; Act Feb. 26, 1925, 43 Stat. 983; Act Sept. 15, 1960, Tit. 2, art. 12, §§ 1(a)(2), 3, 4(b), (d)(1), (e, i), 6, 10, 15, 74 Stat. 1031; Act Mar. 12, 1968, Tit. 1, § 104, 82 Stat. 43. *Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Com.*, 393 U.S. 186, 89 S. Ct. 354, 21 L. Ed. 2d 334, 1968 U.S. LEXIS 2907 (U.S. Dist. Col. 1968).

District of Columbia regulations governing licensing of tour guides may not be applied to tour guides employed by concessionaire which provides interpretive tour services under contract with the Secretary of the Interior since tour guide services are clearly part of interpretive transportation operations that concessionaire performs for the Secretary and as such are within the sole and exclusive control of the Secretary, who may set whatever qualifications for tour guides he deems appropriate and enforce them through his contract with concessionaire. *National Visitor Center Facilities Act of 1968*, § 105 as amended 40 U.S.C. § 804; D.C. Code § 47-2338. *United States v. District of Columbia*, 571 F.2d 651, 1977 U.S. App. LEXIS 5448 (C.A.D.C. 1977).

*National Visitor Facilities Center Act* section authorizing Secretary of the Interior to provide certain kinds of transportation services between federal areas within the District of Columbia and further placing such services under Secretary's sole and exclusive control was intended to insulate concessionaire's operations from local regulation but was not intended to shield concessionaire itself from local informational requirements, and thus Secretary's exclusive control over shuttle service precluded application of local District of Columbia laws relating to vehicle registration and inspection and tour guide licensing but did not preclude application of local laws relating to certification of foreign corporations. *National Visitor Center Facilities Act of 1968*, § 105 as amended 40 U.S.C. § 804; D.C. Code §§ 29-933, 40-102, 40-201, 47-2338. *United States v. District of Columbia*, 571 F.2d 651, 1977 U.S. App. LEXIS 5448 (C.A.D.C. 1977).

The Commissioners of the District can make reasonable regulations for the use of driveways across sidewalks, but the right to regulate does not include the right to prohibit. *Brownlow v. O'Donoghue Bros.*, 276 F. 636, 1921 U.S. App. LEXIS 2130 (1921).

The decision of the Commissioners of the District in regulating the use of driveways across a sidewalk will not be disturbed if it has any reasonable basis in the facts. *Brownlow v. O'Donoghue Bros.*, 276 F. 636, 1921 U.S. App. LEXIS 2130 (1921).

Secretary of Interior had exclusive authority to regulate interpretive tour service operated under contract with Department of Interior, and service therefor was immune from enforcement of District of Columbia licensing and registration requirements. 18 U.S.C. § 1442(a)(1); Fed. Rules Civ. Proc. rule 19, 18 U.S.C.; *National Visitor Center Facilities Act of 1968*, §§ 101-301, 105, 105 note, 106, 201, 202(a) as amended 40 U.S.C. §§ 801-831, 804, 804 note, 805, 821, 822(a); D.C. Code §§ 8-108, 8-109, 29-933, 40-102, 40-201 et seq., 47-2338; 16 U.S.C. §§ 20-20g. *District of Columbia v. Landmark Services, Inc.*, 416 F. Supp. 559, 1976 U.S. Dist. LEXIS 14319 (1976), modified by 571 F.2d 651, 187 U.S. App. D.C. 217, 1977 U.S. App. LEXIS 5448 (1977).



# § 10-139. Public spaces resulting from filling of canals part of park system; exceptions.

All public spaces resulting from the filling of canals in the original City of Washington, except such portions as are included in the navy yard or in actual use as roadways and sidewalks, and except the portions assigned by law to the District of Columbia for use as a property yard and the location of a sewerage pumping station, respectively, are placed under the jurisdiction of the Director of the National Park Service and shall be laid out as reservations as a part of the park system of the District of Columbia.

(Aug. 1, 1914, 38 Stat. 633, ch. 223, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-139. 1973 Ed., § 8-145.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all func-

tions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

## § 10-140. Rock Creek Park — Establishment.

The tract of land lying on both sides of Rock Creek, beginning at Klinge Ford Bridge, and running northwardly, following the course of said creek, acquired under the Act of September 27, 1890, Chapter 1001, shall be perpetually dedicated and set apart as a public park or pleasure ground for the benefit and enjoyment of the people of the United States, to be known by the name of Rock Creek Park.

(Sept. 27, 1890, 26 Stat. 492, ch. 1001, § 1.)

**Section references.** — This section is referenced in § 10-142.

**Prior Codifications.** — 1981 Ed., § 8-140. 1973 Ed., § 8-146.

### CASE NOTES

#### ANALYSIS

In general.  
Validity.

#### In general.

The fact that a public park in the District of

Columbia is dedicated by the act of congress creating it to the use and enjoyment of the people of the United States does not take it out of the rule as to special assessments applicable in the cases of streets and highways; and such assessments to aid in its purchase and im-

provement may constitutionally be made against property specially benefited. *Craighill v. Lambert*, 18 S.Ct. 217, 1898 U.S. LEXIS 1350 (U.S. Dist. Col. 1898).

The United States, by virtue of the constitutional grant of power to exercise over the District of Columbia "exclusive legislation in all cases whatsoever," (article 1, § 8, cl. 17) possesses, not only political, but municipal authority over the District, and therefore has authority to condemn lands lying within the District for a public park. *Shoemaker v. U.S.*, 13 S.Ct. 361, 1893 U.S. LEXIS 4043 (U.S. Dist. Col. 1893).

#### **Validity.**

Act Sept. 27, 1890, 26 Stat. 492, authorizing the establishment of a public park in the District of Columbia, provided that the chief of engineers of the United States army, and the engineer commissioner of the District of Columbia, with three citizens appointed by the president, should be a park commission. Held, that the act was constitutional, and not an attempt

by congress to exercise the appointing power, since its effect was merely to lay upon the two engineers, being officers already appointed, new duties germane to their offices. *Shoemaker v. U.S.*, 13 S.Ct. 361, 1893 U.S. LEXIS 4043 (U.S. Dist. Col. 1893).

Act Sept. 27, 1890, 26 Stat. p. 492, authorizing the establishment of a public park in the District of Columbia, provided for condemning land for such park if the owners thereof and the park commissioners could not agree upon the price, and in such case the value fixed by appraisers was to be submitted to the president of the United States, and, if by him approved as reasonable, was to be binding. Held, that the act was constitutional, and did not impose a judicial function upon the president, whose duty was merely to decide whether the United States would take the land at the appraised value, and not to decide whether such value was reasonable, as respects the property owner. *Shoemaker v. U.S.*, 13 S.Ct. 361, 1893 U.S. LEXIS 4043 (U.S. Dist. Col. 1893).

### **§ 10-141. Rock Creek Park — Area.**

The total area of lands finally to be acquired for said parkway shall not exceed the area and parcels described and delineated on map numbered 2, contained in House Document Numbered 1114 of the 64th Congress, First Session.

(July 1, 1916, 39 Stat. 282, ch. 209, § 1; Mar. 4, 1921, 41 Stat. 1382, ch. 161, § 1.)

**Section references.** — This section is referenced in § 10-154.

**Prior Codifications.** — 1981 Ed., § 8-141. 1973 Ed., § 8-147.

### **§ 10-142. Rock Creek Park — Control; duties of Director; regulations.**

The public park authorized and established by § 10-140 shall be a part of the park system of the District of Columbia, defined by § 10-104 and shall be under the control of the Director of the National Park Service, whose duty it shall be, as soon as practicable, to lay out and prepare roadways and bridle paths, to be used for driving and for horseback riding, respectively, and footways for pedestrians; and whose duty it shall also be to make and publish such regulations as he deems necessary and proper for the care and management of the same. Such regulations shall provide for the preservation from injury or spoilation of all timber, animals, or curiosities within said park, and their retention in their natural condition, as nearly as possible.

(Sept. 27, 1890, 26 Stat. 495, ch. 1001, § 7; July 1, 1918, 40 Stat. 650, ch. 113, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-142.

1973 Ed., § 8-148.



**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. 1, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings

and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

### § 10-143. Rock Creek Park — Leasing authorized; disposition of proceeds.

The Director of the National Park Service is authorized to rent or lease, for periods not exceeding 1 year at any one time, the buildings and arable ground in Rock Creek Park, for such rental as shall seem proper to the Director, and deposit the proceeds of such rents or leases with the Collector of Taxes to the credit of the General Fund of the District of Columbia.

(Aug. 7, 1894, 28 Stat. 252, ch. 232; July 1, 1918, 40 Stat. 650, ch. 113, § 1; Feb. 22, 1921, 41 Stat. 1144, ch. 70, § 7; June 28, 1944, 58 Stat. 533, ch. 300, § 18.)

**Prior Codifications.** — 1981 Ed., § 8-143. 1973 Ed., § 8-149.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. 1, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Adminis-

trator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

**Editor's notes.** — Office of Collector of Taxes abolished: The Office of the Collector of Taxes was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. All functions of the Office of the Collector of Taxes including the functions of all officers, employees and subordinate agencies were transferred to the Director, Department of General Administration by Reorganization Order No. 3, dated August 28, 1952. Reorganization Order No. 20, dated November 10, 1952, transferred the functions of the Col-



lector of Taxes to the Finance Office. The same Order provided for the Office of the Collector of Taxes headed by a Collector in the Finance Office, and abolished the previously existing Office of the Collector of Taxes. Reorganization Order No. 20 was superseded and replaced by Organization Order No. 121, dated December 12, 1957, which provided that the Finance Office (consisting of the Office of the Finance Officer, Property Tax Division, Revenue Division, Treasury Division, Accounting Division, and Data Processing Division) would continue under the direction and control of the Director of General Administration, and that the Treasury Division would perform the function of collecting revenues of the District of Columbia

and depositing the same with the Treasurer of the United States. Organization Order No. 121 was revoked by Organization Order No. 3, dated December 13, 1967, Part IVC of which prescribed the functions of the Finance Office within a newly established Department of General Administration. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions of the Finance Office as stated in Part IVC of Organization Order No. 3 were transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969.

### § 10-144. Rock Creek Park — Acceptance of dedicated property authorized.

The Director of the National Park Service is authorized to accept dedications of land for the purpose of adding to Rock Creek Park, without expense to the United States or the District of Columbia, and such land, when accepted, shall become a part of said park and be under the jurisdiction of the said Director.

(Apr. 27, 1904, 33 Stat. 376, ch. 1628.)

**Prior Codifications.** — 1981 Ed., § 8-144. 1973 Ed., § 8-150.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of

the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

### § 10-145. Rock Creek Park — Protection of Rock Creek and its tributaries.

In order to protect Rock Creek and its tributaries, none of the moneys appropriated on or before June 7, 1924, for the opening, widening, or extending of any street, avenue, or highway in the District of Columbia shall be expended for the opening, widening, or extension of any street, avenue, or highway which shall or may in the judgment of the Mayor of the District of Columbia permanently injure or diminish the existing flow of Rock Creek or any of its

tributaries, nor shall permission so to do at private expense be granted to any private person or corporation except by the joint consent and approval of the Mayor of the District of Columbia and the Director of the National Park Service.

(June 7, 1924, 43 Stat. 574, ch. 302.)

**Prior Codifications.** — 1981 Ed., § 8-145. 1973 Ed., § 8-151.

**Change in government.** — Change in government This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the

Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

## § 10-146. Piney Branch Parkway.

The Piney Branch Parkway is made a part of the park system of the District of Columbia defined by § 10-104.

(July 1, 1918, 40 Stat. 650, ch. 113, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-146. 1973 Ed., § 8-152.

## § 10-147. Potomac Park — Establishment.

The entire reclaimed area formerly known as the Potomac Flats, together with the tidal reservoirs, are made and declared a public park, under the name of the Potomac Park, and to be forever held and used as a park for the recreation and pleasure of the people.

(Mar. 3, 1897, 29 Stat. 624, ch. 375.)

**Section references.** — This section is referenced in § 10-150.

**Prior Codifications.** — 1981 Ed., § 8-147. 1973 Ed., § 8-153.

### § 10-148. Potomac Park — Control.

The Potomac Park is made a part of the park system of the District of Columbia under the exclusive charge and control of the Director of the National Park Service and subject to the provisions of § 10-137.

(Aug. 1, 1914, 38 Stat. 634, ch. 223, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-148. 1973 Ed., § 8-154.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. 1, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all func-

tions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

### § 10-149. Potomac Park — Restriction on construction of lagoon, etc., or speedway.

No part of any money appropriated in any act shall be expended for or toward the construction of any lagoon, or other artificial body of water, or speedway, on any portion of said Park unless specifically authorized by Congress.

(Aug. 1, 1914, 38 Stat. 634, ch. 223, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-149. 1973 Ed., § 8-155.

### § 10-150. Potomac Park — Temporary occupancy by Department of Agriculture.

The Director of the National Park Service is authorized to grant permission to the Department of Agriculture for the temporary occupation of such area or areas of Potomac Park, not exceeding a total of 75 acres in extent, as may not be needed in any one season for the reclamation or park improvement, the said areas to be used by the Department of Agriculture as testing grounds; provided, that nothing herein contained shall be construed to change the essential character of the lands so used, which lands shall continue to be a public park, as provided in § 10-147; and provided further, that said area or



areas shall be vacated by the Department of Agriculture at the close of any season upon the request of the said Director; and provided further, that the entire Park shall remain under the charge of the said Director.

(Mar. 3, 1899, 30 Stat. 1378, ch. 458, § 2.)

**Prior Codifications.** — 1981 Ed., § 8-150. 1973 Ed., § 8-156.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all func-

tions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

## § 10-151. Potomac Park — Licenses for boathouses on banks of tidal reservoir.

Licenses may be granted for the erection of boathouses along the banks of the tidal reservoir on the Potomac River fronting Potomac Park, under regulations to be prescribed by the Director of the National Park Service, and all such licenses granted under this authority shall be revocable, without compensation, by the Secretary of the Army.

(May 27, 1908, 35 Stat. 355, ch. 200, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-151. 1973 Ed., § 8-157.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all

agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the

Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

## **§ 10-152. Parkway connecting Potomac Park with Zoological and Rock Creek Parks — Acquisition of land authorized; reimbursement of costs.**

For the purpose of preventing the pollution and obstruction of Rock Creek and of connecting Potomac Park with the Zoological Park and Rock Creek Park, a commission, to be composed of the Secretary of the Treasury, the Secretary of Defense, and the Secretary of Agriculture, is authorized and directed to acquire, by purchase, condemnation or otherwise, such land and premises as were not, on March 4, 1913, the property of the United States in the District of Columbia shown on the map on file in the Office of the Mayor of the District of Columbia, dated May 17, 1911, and lying on both sides of Rock Creek, including such portion of the creek bed as may be in private ownership, between the Zoological Park and Potomac Park; and the sum of \$1,300,000 is hereby authorized to be expended toward the acquirement of such lands. All lands belonging, on March 4, 1913, to the United States or to the District of Columbia lying within the exterior boundaries of the land to be acquired by this section as shown and designated on said map are appropriated to and made a part of the parkway herein authorized to be acquired. One-half of the cost of the said lands shall be reimbursed to the Treasury of the United States out of the revenues of the District of Columbia in 8 equal annual installments, with interest at the rate of 3 per centum per annum, upon the deferred payments.

(Mar. 4, 1913, 37 Stat. 885, ch. 147, § 22.)

**Section references.** — This section is referenced in § 10-153 and § 10-154.

**Prior Codifications.** — 1981 Ed., § 8-152. 1973 Ed., § 8-158.

**Editor's notes.** — Lands reincluded within parkway: Act of September 1, 1916, 39 Stat. 689, ch. 433, provided certain described lands were reincluded as a part of the connecting parkway between Potomac Park, the Zoological Park and Rock Creek Park.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of

Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## **§ 10-153. Parkway connecting Potomac Park with Zoological and Rock Creek Parks — Taking lines authorized to be extended.**

The authority of the commission created by § 10-152 is extended to include

the acquisition of such additional lands and premises lying adjacent to or in the immediate vicinity of the taking lines as shown on the map on file in the Office of the Executive and Disbursing Officer and known as the map of the Rock Creek and Potomac Parkway (in 4 sheets) dated May, 1923, as may in its discretion, subject to the approval of the Commission on the Arts and Humanities, be necessary for the best development of the connecting parkway between Rock Creek Park, the Zoological Park, and Potomac Park; provided, that the total sum expended for lands needed for this parkway shall not exceed that authorized by § 10-152, and amended by the Second Deficiency Act of May 5, 1926; provided further, that the commission may exclude such lands and premises, not owned by the United States on March 2, 1929, but within the taking lines heretofore authorized for the said Parkway, as may in its discretion, and upon the advice of the Commission on the Arts and Humanities, be found not to be desirable or necessary for the connecting parkway.

(Mar. 2, 1929, 45 Stat. 1523, ch. 542.)

**Prior Codifications.** — 1981 Ed., § 8-153. 1973 Ed., § 8-159.

### § 10-154. Connecting parkway to be part of park system.

When the lands authorized to be purchased pursuant to §§ 10-141 and 10-152, for a connecting parkway between Potomac Park, the Zoological Park, and Rock Creek Park, shall have been acquired, said lands shall be a part of the park system of the District of Columbia subject to the provisions of § 10-104.

(July 1, 1916, 39 Stat. 282, ch. 209.)

**Prior Codifications.** — 1981 Ed., § 8-154.  
1973 Ed., § 8-160.

**Editor's notes.** — Acquisition of land autho-

rized: Act of February 28, 1923, 42 Stat. 1366, ch. 148, provided authorization for the acquisition of certain land described in that Act.

### § 10-155. Anacostia Park.

The entire area of the Anacostia River and Flats reclaimed and to be reclaimed from the mouth of the river to the District line is made and declared a part of the park system of the District of Columbia and designated Anacostia Park.

(Aug. 31, 1918, 40 Stat. 950, ch. 164, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-155.  
1973 Ed., § 8-161.

**Editor's notes.** — Tree nursery: Act of May 7, 1926, 44 Stat. 405, ch. 251, transferred to the

jurisdiction of the District of Columbia a certain portion of Anacostia Park for use as a tree nursery.

### § 10-156. Glover Parkway and Children's Playground — Acceptance of land authorized.

The Council of the District of Columbia is authorized and directed to accept the land lying along Foundry Branch between Massachusetts Avenue and



Reservoir Street, dedicated by Charles C. Glover for park purposes, and containing approximately seventy-seven and one-half acres, as more accurately shown on map number 1003, filed in the Office of the Surveyor of the District of Columbia, which tract of land shall be known as "The Glover Parkway and Children's Playground"; and the Council is further authorized to accept any dedications of additional land contiguous to this tract for park purposes.

(June 6, 1924, 43 Stat. 464, ch. 271, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-156.  
1973 Ed., § 8-162.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402 (184) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-157. Glover Parkway and Children's Playground — Part of park system.

The Glover Parkway and Children's Playground and additions thereto, when acquired, shall become a part of the park system of the District of Columbia.

(June 6, 1924, 43 Stat. 464, ch. 271, § 2.)

**Prior Codifications.** — 1981 Ed., § 8-157. 1973 Ed., § 8-163.

## § 10-158. Theodore Roosevelt Island — Maintenance, administration and development.

The island, known as Theodore Roosevelt Island, shall be maintained and administered by the Director of the National Park Service as a natural park for the recreation and enjoyment of the public; provided, that no general plan for the development of the island be adopted without the approval of the Theodore Roosevelt Association; and so long as this Association remains in existence, no development, inconsistent with this plan, be executed without the Association's consent.

(May 21, 1932, 47 Stat. 163, ch. 200, § 1; Feb. 11, 1933, 47 Stat. 799, ch. 48, § 1; May 21, 1953, 67 Stat. 27, ch. 63, § 2.)

**Prior Codifications.** — 1981 Ed., § 8-158.  
1973 Ed., § 8-164.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of

Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, trans-

ferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Adminis-

trator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

### § 10-159. Theodore Roosevelt Island — Means of access; appropriations.

The Director of the National Park Service is authorized to provide suitable means of access to and upon the said Theodore Roosevelt Island as appropriations are made available from time to time and subject to the approval of the National Capital Planning Commission; and the appropriations needed for such construction and annually for the care, maintenance, and improvement of the said lands and improvements, are hereby authorized to be made from any funds not otherwise appropriated from the Treasury of the United States.

(May 21, 1932, 47 Stat. 164, ch. 200, § 2; Feb. 11, 1933, 47 Stat. 799, ch. 48, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-159. 1973 Ed., § 8-165.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were

transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

The functions, powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of June 6, 1924, 43 Stat. 463, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

### § 10-160. Theodore Roosevelt Island — Structures authorized; appropriations.

That the Secretary of the Interior shall erect on Theodore Roosevelt Island

such monument or memorial to the memory of Theodore Roosevelt, and related structures, as may be approved by the living children of Theodore Roosevelt, the Theodore Roosevelt Association, the Commission on the Arts and Humanities, and the National Capital Planning Commission. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(May 21, 1932, 47 Stat. 164, ch. 200, § 3; Feb. 11, 1933, 47 Stat. 799, ch. 48, § 1; May 21, 1953, 67 Stat. 27, ch. 63, § 2; Sept. 13, 1960, 74 Stat. 904, Pub. L. 86-764.)

**Prior Codifications.** — 1981 Ed., § 8-160. 1973 Ed., § 8-166.

### § 10-161. Theodore Roosevelt Island — Designation.

In all public documents, records, and maps of the United States in which such island is designated or referred to it shall be designated as “Theodore Roosevelt Island.”

(Feb. 11, 1933, 47 Stat. 799, ch. 48, § 2.)

**Prior Codifications.** — 1981 Ed., § 8-161. 1973 Ed., § 8-167.

### § 10-162. Public bathing beach authorized.

The Mayor of the District of Columbia is hereby authorized and permitted to construct a beach and dressing houses upon the east shore of the tidal reservoir against the Washington Monument Grounds, and to maintain the same for the purpose of free public bathing, under such regulations as the Council of the District of Columbia shall deem to be for the public welfare; and the Secretary of the Army is requested to permit such use of the public domain as may be required to accomplish the objects above set forth.

(Sept. 26, 1890, 26 Stat. 490, ch. 949.)

**Prior Codifications.** — 1981 Ed., § 8-162. 1973 Ed., § 8-168.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(185) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-163. Bathing pools and beaches — Construction authorized; appropriations.

The Director of the National Park Service is authorized and directed to



locate and construct in the District of Columbia, subject to the approval of the National Capital Planning Commission, and after consultation with the Commission on the Arts and Humanities, as appropriations shall be provided therefor, artificial bathing pools or beaches, not exceeding 6 in number, with suitable buildings, shower baths, lockers, provisions for the use of filtered water, purification of the water, and all things necessary for the proper conduct of such pools or beaches, and to conduct and maintain the same. The cost of construction of any of these pools or beaches, with buildings and equipment, shall not exceed \$150,000 each, and the appropriation of the sums necessary for the purposes named is hereby authorized to be paid in like manner as other appropriations for the expenses of the government of the District of Columbia.

(May 4, 1926, 44 Stat. 394, ch. 234; Feb. 28, 1929, 45 Stat. 1412, ch. 384, § 1.)

**Section references.** — This section is referenced in § 10-165.

**Prior Codifications.** — 1981 Ed., § 8-163.  
1973 Ed., § 8-169.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. I, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings

and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

The functions, powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of June 6, 1924, 43 Stat. 463, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

## § 10-164. Bathing pools and beaches — Possession, control, and maintenance; fees.

The Director of the National Park Service may, in the interest of economy and good administration, with the consent of the Mayor of the District of Columbia, transfer for such period as he shall determine, to said Mayor the possession, control, and maintenance of any of said bathing pools or beaches. Otherwise they shall be operated and maintained by the said Director of the National Park Service and in either case the official conducting any bathing pool or beach is hereby authorized to charge and collect a reasonable fee for the use and enjoyment of such pool or beach, such fees to be paid weekly to the Collector of Taxes of the District of Columbia for deposit in the treasury to the credit of the District of Columbia.

(May 4, 1926, 44 Stat. 394, ch. 234; Feb. 28, 1929, 45 Stat. 1412, ch. 384, § 2.)

**Section references.** — This section is referenced in § 10-165.

**Prior Codifications.** — 1981 Ed., § 8-164. 1973 Ed., § 8-170.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. 1, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all functions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

**Editor's notes.** — Office of Collector of Taxes abolished: The Office of the Collector of Taxes was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. All functions of the Office of the Collector of Taxes including the functions of all officers, employees and subordinate agencies were transferred to the Director, Department of General Administration by Reorganization Order No. 3, dated August 28, 1952. Reorganization Order No. 20, dated November

10, 1952, transferred the functions of the Collector of Taxes to the Finance Office. The same Order provided for the Office of the Collector of Taxes headed by a Collector in the Finance Office, and abolished the previously existing Office of the Collector of Taxes. Reorganization Order No. 20 was superseded and replaced by Organization Order No. 121, dated December 12, 1957, which provided that the Finance Office (consisting of the Office of the Finance Officer, Property Tax Division, Revenue Division, Treasury Division, Accounting Division, and Data Processing Division) would continue under the direction and control of the Director of General Administration, and that the Treasury Division would perform the function of collecting revenues of the District of Columbia and depositing the same with the Treasurer of the United States. Organization Order No. 121 was revoked by Organization Order No. 3, dated December 13, 1967, Part IVC of which prescribed the functions of the Finance Office within a newly established Department of General Administration. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions of the Finance Office as stated in Part IVC of Organization Order No. 3 were transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-165. Bathing pools and beaches — Operation; disposition of moneys received.

The Director of the National Park Service in his discretion, is authorized to operate, through the Public Building Service of the General Services Admin-



istration, bathing pools under his jurisdiction, and thereupon there may be deposited in the treasury under the special fund to the credit of said association moneys received for the operation of such pools and be there available for the purposes of said special fund and this shall be a compliance with the provisions of §§ 10-163 and 10-164.

(July 3, 1930, 46 Stat. 1007, ch. 853.)

**Prior Codifications.** — 1981 Ed., § 8-165.  
1973 Ed., § 8-171.

**Transfer of Functions.** — The functions of the Director of the National Park Service relating to public buildings were transferred to the Federal Works Administrator by § 303 (b) of Reorganization Plan No. 1, July 1, 1939, 4 F.R. 2729, 53 Stat. 1427. All functions of all officers of the Department of the Interior (including the Director of the National Park Service) and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, and all func-

tions of the Commissioner of Public Buildings and the Public Buildings Administration, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. The Federal Works Agency, the Office of Federal Works Administrator, the Office of Commissioner of Public Buildings, and the Public Buildings Administration, were abolished by § 103(b) of said Act. All functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in government-owned buildings), were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by § 1 of 1950 Reorganization Plan No. 18, 15 F.R. 3177, 64 Stat. 1270.

## § 10-166. Division of Park Services.

(a) Pursuant to § 1-204.04(b), jurisdiction over all public space park areas, maintained by the Department of Public Works before July 1, 1989, shall be transferred to and become the responsibility of the Department of Recreation. For purposes of this section, the phrase "all public space park areas" ("parks") includes all parcels, lots, squares of land, green spaces, and monuments located within and owned or maintained by the District of Columbia government and not owned or maintained by the federal government.

(b) The Department of Public Works, Division of Roadside and Parks Maintenance, shall retain jurisdiction over, and responsibility for maintenance, landscaping, beautifying, promoting, and regulation of roadsides, interstate gateways, and cloverleafs.

(c) The Facility Maintenance Administration within the Department of Recreation shall have jurisdiction over, and be responsible for the maintenance, landscaping, beautifying, promotion, and regulation of the parks transferred pursuant to this section.

(d) Funds and existing continuing full-time employees and positions authorized for the Department of Public Works, Division of Roadside and Parks Maintenance (Responsibility Center 4044) within the Public Space Administration (Control Center 40) in the Fiscal Year 1989 Budget for the District of Columbia and allocated for the maintenance, landscaping, beautifying, promotion, and regulation of parks transferred pursuant to this section, shall be transferred to the Department of Recreation, Facility Maintenance Adminis-



tration (Responsibility Center 2700) within Recreation Operations (Control Center 20).

(e) The Facility Maintenance Administration (Responsibility Center 2700) within Recreation Operations (Control Center 20) is renamed the Parks and Facility Maintenance Administration.

(f) The Department of Recreation is renamed the Department of Recreation and Parks.

(Mar. 16, 1989, D.C. Law 7-209, § 2, 36 DCR 476.)

**Prior Codifications.** — 1981 Ed., § 8-166.

**Legislative history of Law 7-209.** — Law 7-209, the “Division of Park Services Act of 1988,” was introduced in Council and assigned Bill No. 7-300, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively.

Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-280 and transmitted to both Houses of Congress for its review.

**References in text.** — Pursuant to Mayor’s Order 2000-20, the agency formerly known as the Department of Recreation and Parks shall be known as the Department of Parks and Recreation.

## § 10-166.01. Park Policy and Programs Division.

(a) There is established the Park Policy and Programs Division (“Division”) within the Department of Parks and Recreation. The purpose of the Division is to improve the parks and park programs to broaden the use and enjoyment of the parks to enhance the quality-of-life of residents of, and visitors to, the District.

(b) The Division shall be administered by a Chief Park Policy and Programs Officer who shall:

- (1) Have authority over its functions and personnel;
- (2) Staff, as necessary, the programs and activities of the Division;
- (3) Establish a small parks improvement program, which shall:

(A) Categorize, prioritize, and develop systems, options, and processes for pocket-park improvements and long-term maintenance, including sustainability practices; and

(B) In conjunction with the Partnerships & Development divisions, develop partnerships with community-based organizations and Friends groups to assist in small parks improvements, programming, and maintenance;

- (4) Establish a community gardens program, which shall:

(A) Support the Mayor’s Sustainable DC initiative to provide healthy, affordable food, by:

- (i) Developing standards for community gardens;
- (ii) Identifying suitable parcels of land for community gardens; and
- (iii) Assisting community groups to implement community gardens;

and

- (B) Implement Chapter 4 of Title 48 [§ 48-401 et seq.];

(5) In conjunction with the Operations Division, prioritize park improvement projects in the capital improvement program;

(6) In conjunction with the Office of Planning, coordinate the implementation of the District’s responsibilities regarding the park elements of the Capital Space Plan, as adopted by the National Capital Planning Commission on April 1, 2010;

- (7) In conjunction with the Department of General Services, inventory all real property park assets under the control of the District; and
- (8) Coordinate appropriate government agencies, as needed.

(Mar. 16, 1989, D.C. Law 7-209, § 2a, as added Sept. 20, 2012, D.C. Law 19-168, § 5082, 59 DCR 8025.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-168 added this section.

**Legislative history of Law 19-168.** — Law 19-168, the “Fiscal Year 2013 Budget Support Act of 2012,” was introduced in Council and assigned Bill No. 19-743. The Bill was adopted

on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

## § 10-167. Crispus Attucks Park indemnification [Not funded].

- (a) [Not funded].

**Section references.** — This section is referenced in § 1-125.

**Legislative history of Law 16-202.** — Law 16-202, the “Crispus Attucks Park Indemnification Act of 2006,” was introduced in Council and assigned Bill No. 16-324, which was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on July 11, 2006, and October 3, 2006, respectively. Signed by the Mayor on October 24, 2006, it was assigned Act No. 16-502 and transmitted to both Houses of Congress for its review. D.C. Law 16-202 became effective on March 2, 2007.

**Editor’s notes.** — Section 2(c) of D.C. Law 16-202 provided that this section shall be subject to the availability of appropriations.

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 16-202 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 16-202, are not in effect.

## CHAPTER 2. RECREATION BOARD.

*Subchapter I. Membership of the Recreation Board.*

Sec.

- 10-201. Creation.
- 10-202. Composition; selection; tenure; qualifications.
- 10-203. Liability.
- 10-204. Vacancies.
- 10-205. Compensation.
- 10-206. Officers; rules and regulations.
- 10-207. Meetings.

*Subchapter II. Functions and Administrative Responsibilities.*

- 10-211. Determination of general policy; supervision of expenditures.
- 10-212. Superintendent of Recreation; appointment and duties; qualifications; other employees; volunteer services.
- 10-213. Comprehensive program for public recreation; leasing rights not affected.

Sec.

- 10-213.01. Disposition of fees.
- 10-214. Annual budget.
- 10-215. Annual report.

*Subchapter III. Relationship to Other Agencies.*

- 10-221. Transfer of functions of Community Center and Playgrounds Department; transfer of unexpended funds.
- 10-222. Control of lands, buildings, and other facilities.
- 10-223. Powers of Board of Education, Mayor of District of Columbia, or National Park Service unabridged.
- 10-224. Agreements for maintenance and improvement of playgrounds, etc.; transfer of funds, etc.
- 10-225. Services on reimbursable basis.
- 10-226. Transfer of equipment, etc., of Community Center and Playgrounds Department.

*Subchapter I. Membership of the Recreation Board.*

## § 10-201. Creation.

There is hereby created in and for the District of Columbia a Recreation Board hereinafter referred to as "the Board."

(Apr. 29, 1942, 56 Stat. 261, ch. 265.)

**Prior Codifications.** — 1981 Ed., § 8-201. 1973 Ed., § 8-201.

**Mayor's Orders.** — Establishment—D.C. Advisory Committee on Recreation & Parks: See Mayor's Order 90-191, December 13, 1990.

**Editor's notes.** — Recreation Board abolished: The Recreation Board, together with the position of Superintendent of Recreation, was

abolished and the functions of both the Board and the Superintendent were transferred to the Commissioner of the District of Columbia by Reorganization Plan No. 3 of 1968. Organization Order No. 10, dated June 27, 1968, established a Department of Recreation, under the direction and control of the Commissioner, headed by a Director of Recreation.

## CASE NOTES

**In general.**

Recreation Board of the District of Columbia, having power and authority to conduct comprehensive program of public recreation and recreation centers, including playgrounds, has statutory jurisdiction to determine all ques-

tions of policy with respect to playgrounds under its control. D.C. Code 1940, §§ 8-201 et seq., 8-202, 8-208 to 8-210, 8-214. *Camp v. Recreation Bd. for District of Columbia*, 104 F.Supp. 10, 1952 U.S. Dist. LEXIS 4251 (D.D.C.1952).

## § 10-202. Composition; selection; tenure; qualifications.

The Board shall consist of 7 members as follows: a representative of the Mayor of the District of Columbia selected by the Mayor; a representative of the Board of Education selected by that Board; the Superintendent of the



National Capital Parks ex-officio; and 4 members, who shall have been for 5 years immediately preceding their selection bona fide residents of the District of Columbia, appointed by the Mayor of the District of Columbia for a term of 4 years each, except the original appointments which shall be for terms of 1, 2, 3, and 4 years, respectively. The appointment of the 4 citizens shall be without regard to race, sex, or creed, and shall take judicious account of the various parent, civic, and other organizations through which residents of the District voice their civic wishes and advance the common welfare. The 2 members of the Board representing the Mayor and the Board of Education shall be designated annually by their respective agencies.

(Apr. 29, 1942, 56 Stat. 261, ch. 265, art. I, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-202. 1973 Ed., § 8-202.

**Editor's notes.** — Recreation Board abolished: See Historical and Statutory Notes following § 10-201.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CASE NOTES

### In general.

Recreation Board of the District of Columbia, having power and authority to conduct comprehensive program of public recreation and recreation centers, including playgrounds, has statutory jurisdiction to determine all ques-

tions of policy with respect to playgrounds under its control. D.C. Code 1940, §§ 8-201 et seq., 8-202, 8-208 to 8-210, 8-214. *Camp v. Recreation Bd. for District of Columbia*, 104 F.Supp. 10, 1952 U.S. Dist. LEXIS 4251 (D.D.C.1952).

## § 10-203. Liability.

The members of the Board shall not be personally liable in damages for any official action of the said Board performed in good faith, nor shall any member of said Board be liable for any costs that may be taxed against them or the Board on account of any such official action; but such costs shall be charged to the District of Columbia and paid as other costs are paid in suits brought against the municipality; nor shall the said Board or any of its members be required to give any supersedeas bond or security for costs or damages on any appeal whatever.

(Apr. 29, 1942, 56 Stat. 261, ch. 265, art. I, § 2.)

**Prior Codifications.** — 1981 Ed., § 8-203. 1973 Ed., § 8-203.

**Editor's notes.** — Recreation Board abol-

ished: See Historical and Statutory Notes following § 10-201.

## § 10-204. Vacancies.

Vacancies shall be filled for the unexpired term by the agency which made the original selection.

(Apr. 29, 1942, 56 Stat. 262, ch. 265, art. I, § 3.)

**Prior Codifications.** — 1981 Ed., § 8-204. 1973 Ed., § 8-204.

## § 10-205. Compensation.

The members of the Board shall serve without compensation for such service.

(Apr. 29, 1942, 56 Stat. 262, ch. 265, art. I, § 4.)

**Prior Codifications.** — 1981 Ed., § 8-205. 1973 Ed., § 8-205. *ished:* See Historical and Statutory Notes following § 10-201.

**Editor's notes.** — Recreation Board abol-

## § 10-206. Officers; rules and regulations.

The Board shall select from among its citizen membership its Chairman and its Secretary and is hereby authorized and empowered to adopt all necessary rules and regulations for the conduct of its business.

(Apr. 29, 1942, 56 Stat. 262, ch. 265, art. I, § 5.)

**Prior Codifications.** — 1981 Ed., § 8-206. 1973 Ed., § 8-206. *ished:* See Historical and Statutory Notes following § 10-201.

**Editor's notes.** — Recreation Board abol-

## § 10-207. Meetings.

The Board shall hold stated meetings and such additional meetings as they may from time to time deem necessary. All meetings of the Board shall be open to the public.

(Apr. 29, 1942, 56 Stat. 262, ch. 265, art. I, § 6.)

**Prior Codifications.** — 1981 Ed., § 8-207. 1973 Ed., § 8-207. *ished:* See Historical and Statutory Notes following § 10-201.

**Editor's notes.** — Recreation Board abol-

### *Subchapter II. Functions and Administrative Responsibilities.*

## § 10-211. Determination of general policy; supervision of expenditures.

The Board shall determine all questions of general policy relating to public recreation in and for the District of Columbia, and shall supervise and direct expenditure of all appropriations and/or other funds made available to the Board.

(Apr. 29, 1942, 56 Stat. 262, ch. 265, art. II, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-211.  
1973 Ed., § 8-208.  
**Editor's notes.** — Recreation Board abol-

ished: See Historical and Statutory Notes following § 10-201.

#### CASE NOTES

##### **In general.**

In order to prevail on claim that District of Columbia had discriminated in provision of municipal services, plaintiffs had to show a substantial inequity in input of municipal services as among various groups and that some logical nexus might be discerned between these inequities and possible discrimination based on race or other suspect classification; such a nexus could be inferred from the linking of present policies to those followed during a prior history of overt racial discrimination. *Burner v. Washington*, 399 F. Supp. 44, 1975 U.S. Dist. LEXIS 11439 (1975).

Recreation Board of the District of Columbia, having power and authority to conduct comprehensive program of public recreation and recreation centers, including playgrounds, has statutory jurisdiction to determine all questions of policy with respect to playgrounds under its control. D.C. Code 1940, §§ 8-201 et seq., 8-202, 8-208 to 8-210, 8-214. *Camp v. Recreation Bd. for District of Columbia*, 104 F.Supp. 10, 1952 U.S. Dist. LEXIS 4251 (D.D.C.1952).

### **§ 10-212. Superintendent of Recreation; appointment and duties; qualifications; other employees; volunteer services.**

(a) The Board is hereby authorized to appoint a Superintendent of Recreation, which position is hereby authorized and created, who shall be the chief executive officer of the Board but not a member thereof, and shall be charged with the general organization, administration, and supervision of the program of public recreation contemplated and provided for by this chapter. The Superintendent shall be a person of such training, experience, and capacity as will especially qualify him to discharge the duties of the office. He shall possess those qualifications of education, training, and experience in recreation work as well as executive and administrative experience which will assure a thorough knowledge of current theory and practice in public recreation and give promise of the administrative ability necessary to administer a program of public recreation in and for the Nation's Capital.

(b) The Board, upon the recommendation of the Superintendent, is empowered to appoint, promote, demote, and terminate the employment of such personnel as are necessary to carry out the purposes of this chapter. The Superintendent may suspend for cause for a period not exceeding 30 days any employee of the Board.

(c) All present personnel of the Community Center and Playgrounds Department whose services have heretofore been rated satisfactory shall be retained by the Board with the understanding that this provision does not contemplate the continued employment of individuals whose service is inefficient, and such personnel shall continue to function under existing rules and regulations until such time as classification and civil service requirements have been effected.



(d) The Superintendent and all other regular annual personnel of the Recreation Board shall be employees of the District of Columbia.

(e) Upon recommendation of the Superintendent, the Board is authorized to employ, on a part-time basis, without regard to the prohibition against double salaries provided by § 58 of Title 5, United States Code, such teachers, custodial, and other employees of the United States, the District of Columbia, and the Board of Education, upon approval by the present employer, as may be necessary to keep in operation and to conduct therein appropriate phases of the recreation program authorized by this chapter.

(f) The respective facilities of the United States, the District of Columbia, and the Board of Education shall, by the agreement of the respective agencies of the government having control of such facilities, be made available to the Board under the terms of this chapter.

(g) The Superintendent is authorized to employ for a 90-day period as full- or part-time employees, such referees, umpires, swimming-pool guards and attendants, gymnasium and playground supervisors, and other similar special employees as may be necessary to carry out the recreation program authorized by this chapter; provided, that the retention in the District service of any such employees for a period longer than 90 days shall be subject to the approval of the Board.

(h) The Board is authorized to accept upon recommendation of the Superintendent the gratis services of such persons as may volunteer to aid in the conduct of any of its activities.

(Apr. 29, 1942, 56 Stat. 262, ch. 265, art. II, § 2; Oct. 28, 1949, 63 Stat. 972, ch. 782, title XI, § 1106(a); Apr. 23, 1958, 72 Stat. 97, Pub. L. 85-383, § 1; Mar. 3, 1979, D.C. Law 2-139, § 3205(g), 25 DCR 5740.)

**Cross references.** — Effective date provisions, see § 1-636.02.

Use of buildings and grounds, authority, see § 38-401.

**Section references.** — This section is referenced in § 1-636.02 and § 38-401.

**Prior Codifications.** — 1981 Ed., § 8-212. 1973 Ed., § 8-209.

**Temporary Addition of Section.** — Section 2 of D.C. Law 18-251 added a provision to read as follows:

“Sec. 2. Summer safety plan for public pools.

“The Mayor shall issue a report to the Council no later than 10 days from the effective date of the Summer Pool Safety Emergency Act of 2010, effective July 19, 2010 (D.C. Act 18-487), and on May 1st of each subsequent year, detailing a summer safety plan for District-operated public pools. The plan shall include:

“(1) A review of the appropriate lifeguard-to-swimmer ratio;

“(2) A lifeguard schedule plan for each public pool;

“(3) A medical safety summary, including the availability of automated external defibrillator devices, for each public pool; and

“(4) Feasibility of installing an automated drowning detection system in public pools.”

Section 4(b) of D.C. Law 18-251 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition of section, see § 2 of Summer Pool Safety Emergency Act of 2010 (D.C. Act 18-487, July 19, 2010, 57 DCR 7167).

**Legislative history of Law 2-139.** — Law 2-139, the “District of Columbia Government Comprehensive Merit Personnel Act of 1978,” was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

**References in text.** — Section 58 of Title 5, United States Code, referred to in subsection (e) of this section, was repealed by the Act of August 19, 1964, 78 Stat. 492, Pub. L. 88-448, § 402(a)(1). See now § 5533 of Title 5, United States Code.

**Editor's notes.** — Recreation Board abolished: See Historical and Statutory Notes following § 10-201.

CASE NOTES

**In general.**

Recreation Board of the District of Columbia, having power and authority to conduct comprehensive program of public recreation and recreation centers, including playgrounds, has statutory jurisdiction to determine all ques-

tions of policy with respect to playgrounds under its control. D.C. Code 1940, §§ 8-201 et seq., 8-202, 8-208 to 8-210, 8-214. *Camp v. Recreation Bd. for District of Columbia*, 104 F.Supp. 10, 1952 U.S. Dist. LEXIS 4251 (D.D.C.1952).

**§ 10-213. Comprehensive program for public recreation; leasing rights not affected.**

(a) The Board shall have power and authority to adopt, conduct, direct, or cause to be conducted or directed, under its supervision, a comprehensive program of public recreation which shall include the operation and direction of games, sports, arts and crafts, hobby shops, music, drama, speech, nursery play, dancing, lectures, forum for informal discussion, and such other physical, social, mental, and creative opportunities for leisure-time participation as the Board shall deem advisable to offer in major recreation centers, playfields, athletic fields, playgrounds, tennis courts, baseball diamonds, swimming pools, beaches, golf courses, community centers, and social centers in schools, parks, or other publicly owned buildings, as well as other recreational facilities which may be agreed upon between the Board and the agencies having jurisdiction over such facilities. The public properties utilized by the Board for the above purposes shall include those designated by the National Capital Planning Commission, in accordance with a comprehensive plan, as suitable and desirable units of the District of Columbia recreational system.

(b) Nothing in this chapter contained shall be construed as affecting any rights under any existing lease or leases lawfully entered into by any agency mentioned or affected by this chapter, nor shall anything in this chapter contained be construed as affecting the right of any such agency in the future lawfully to enter into leases of land or premises under its control for recreational purposes.

(Apr. 29, 1942, 56 Stat. 263, ch. 265, art. II, § 3.)

**Prior Codifications.** — 1981 Ed., § 8-213. 1973 Ed., § 8-210.

**Transfer of Functions.** — The functions, powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by

the Act of June 6, 1924, 43 Stat. 463, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

**Editor's notes.** — Recreation Board abolished: See Historical and Statutory Notes following § 10-201.

CASE NOTES

**In general.**

Recreation Board of the District of Columbia, having power and authority to conduct comprehensive program of public recreation and rec-

reation centers, including playgrounds, has statutory jurisdiction to determine all questions of policy with respect to playgrounds under its control. D.C. Code 1940, §§ 8-201 et



seq., 8-202, 8-208 to 8-210, 8-214. Camp v. F.Supp. 10, 1952 U.S. Dist. LEXIS 4251  
Recreation Bd. for District of Columbia, 104 (D.D.C.1952).

### § 10-213.01. Disposition of fees.

Effective June 14, 1980, all fees and receipts from those activities for which the Department of Recreation and Parks determines to charge a fee shall be deposited in the General Fund.

(Apr. 29, 1942, ch. 265, art. II, § 4a, as added May 16, 1995, D.C. Law 10-255, § 12, 41 DCR 5193.)

**Prior Codifications.** — 1981 Ed., § 8-213.1.

**Legislative history of Law 10-255.** — Law 10-255, the “Technical Amendments Act of 1994,” was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the

Mayor on July 25, 1995, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

**References in text.** — Pursuant to Mayor’s Order 2000-20, the agency formerly known as the Department of Recreation and Parks shall be known as the Department of Parks and Recreation.

### § 10-214. Annual budget.

The Board shall prepare and submit to the Mayor of the District of Columbia an annual budget itemizing the appropriations necessary for the performance of its functions and duties under this chapter, including appropriations necessary for the purchase of books, literature, newspapers, periodicals, technical reference material, trophies, and medals, and as provided in § 10-224, the Board’s share of the cost of improvement, maintenance, and upkeep of the buildings and grounds used by the Board and which are under the jurisdiction of the Board of Education, the Mayor, or the National Park Service.

(Apr. 29, 1942, 56 Stat. 263, ch. 265, art. II, § 5.)

**Prior Codifications.** — 1981 Ed., § 8-214. 1973 Ed., § 8-212.

**Editor’s notes.** — Recreation Board abolished: See Historical and Statutory Notes following § 10-201.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### In general.

Recreation Board of the District of Columbia, having power and authority to conduct comprehensive program of public recreation and recreation centers, including playgrounds, has

statutory jurisdiction to determine all questions of policy with respect to playgrounds under its control. D.C. Code 1940, §§ 8-201 et seq., 8-202, 8-208 to 8-210, 8-214. Camp v. Recreation Bd. for District of Columbia, 104



F.Supp. 10, 1952 U.S. Dist. LEXIS 4251  
(D.D.C1952).

## § 10-215. Annual report.

The Board shall submit to the Mayor of the District of Columbia an annual report of its activities, together with recommendations for further activities and development, or curtailment.

(Apr. 29, 1942, 56 Stat. 264, ch. 265, art. II, § 6.)

**Prior Codifications.** — 1981 Ed., § 8-215.  
1973 Ed., § 8-213.

**Editor's notes.** — Recreation Board abolished: See Historical and Statutory Notes following § 10-201.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### *Subchapter III. Relationship to Other Agencies.*

## § 10-221. Transfer of functions of Community Center and Playgrounds Department; transfer of unexpended funds.

All the functions of the Community Center and Playgrounds Department now under the joint control of the Mayor of the District of Columbia and the Board of Education are hereby transferred to and shall, after the effective date of this chapter, be vested in the said Recreation Board. The transfer of all such functions shall include transfer of the unexpended balance of the appropriation of the Community Center and Playgrounds Department, any unexpended balance in trust funds, and the salary of the coordinator now carried in the appropriation of the National Capital Parks.

(Apr. 29, 1942, 56 Stat. 264, ch. 265, art. III, § 1.)

**Prior Codifications.** — 1981 Ed., § 8-221.  
1973 Ed., § 8-214.

**References in text.** — The words "effective date of this chapter", appearing near the end of the first sentence of this section, mean 30 days from the date of its approval.

**Editor's notes.** — Recreation Board abolished: See Historical and Statutory Notes following § 10-201.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts

Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of the Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced

by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to

§ 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-222. Control of lands, buildings, and other facilities.

The control of all land, buildings, and other facilities used by the Board shall be in accordance with agreements reached between the Board and the governmental agencies having jurisdiction over such properties.

(Apr. 29, 1942, 56 Stat. 264, ch. 265, art. III, § 2.)

**Prior Codifications.** — 1981 Ed., § 8-222. 1973 Ed., § 8-215.

ished: See Historical and Statutory Notes following § 10-201.

**Editor's notes.** — Recreation Board abol-

## § 10-223. Powers of Board of Education, Mayor of District of Columbia, or National Park Service un-abridged.

No power or authority conferred by this chapter shall be construed to abridge the powers of the Board of Education, the Mayor of the District of Columbia, or the National Park Service to refuse the use of any ground, building, or facility under their individual or collective control whenever the use of any such ground, building, or facility for recreational purposes would interfere with the use or purpose for which such ground, building, or facility was acquired or created, and nothing herein expressed or implied shall be construed to abrogate any powers vested in the Board of Education by the Organic Act of 1906 insofar as the control of public education and all necessary facilities and personnel is concerned.

(Apr. 29, 1942, 56 Stat. 264, ch. 265, art. III, § 3.)

**Cross references.** — Use of buildings and grounds, authority, see § 38-401.

**Section references.** — This section is referenced in § 38-401.

**Prior Codifications.** — 1981 Ed., § 8-223. 1973 Ed., § 8-216.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-224. Agreements for maintenance and improvement of playgrounds, etc.; transfer of funds, etc.

The maintenance and improvement of all playgrounds and recreation areas and facilities now under the control of the Board of Education, or of the Mayor

of the District of Columbia, or of the National Park Service, or which may hereafter be acquired by any of said agencies for said purpose, may be provided for by agreement between the Board and the Board of Education, the Council of the District of Columbia, and the National Park Service, respectively. The Board is hereby authorized to transfer to the said agencies such funds, equipment, and personnel as may be necessary to carry said agreements into effect.

(Apr. 29, 1942, 56 Stat. 264, ch. 265, art. III, § 4.)

**Section references.** — This section is referenced in § 10-214 and § 38-401.

**Prior Codifications.** — 1981 Ed., § 8-224. 1973 Ed., § 8-217.

**Editor's notes.** — Recreation Board abolished: See Historical and Statutory Notes following § 10-201.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-225. Services on reimbursable basis.

The Board is authorized to arrange with other governmental agencies for services on a reimbursable basis.

(Apr. 29, 1942, 56 Stat. 264, ch. 265, art. III, § 5.)

**Prior Codifications.** — 1981 Ed., § 8-225. 1973 Ed., § 8-218.

**Editor's notes.** — Recreation Board abol-

ished: See Historical and Statutory Notes following § 10-201.

## § 10-226. Transfer of equipment, etc., of Community Center and Playgrounds Department.

All equipment, machinery, supplies, and materials of the Community Center and Playgrounds Department shall, on the effective date of this chapter, be transferred to the Board.

(Apr. 29, 1942, 56 Stat. 264, ch. 265, art. III, § 6.)

**Prior Codifications.** — 1981 Ed., § 8-226. 1973 Ed., § 8-219.

**References in text.** — The words "effective date of this chapter", appearing in this section, mean 30 days from the date of its approval.

**Editor's notes.** — Recreation Board abolished: See Historical and Statutory Notes following § 10-201.



## CHAPTER 3. FUNDRAISING FOR RECREATIONAL FACILITIES.

Sec.	Sec.
10-301. Definitions.	10-303. Creation of Fund; accounting and investment.
10-302. Authority of Department of Recreation and Parks.	10-304. Park adoptions and sponsorships.
10-302.01. Fee-based use permits.	10-305. Mega recreation centers.
10-302.02. Nutrition at Department facilities.	10-306. Establishment of Recreation Assistance Board.
10-302.03. Priority for Department programs and facilities.	10-307. Rules.

## § 10-301. Definitions.

For purposes of this chapter:

(1) The term “adopt” means to enter into a binding commitment to a program, site, or operation for not less than 1 year in duration.

(2) “Department” means the Department of Parks and Recreation.

(3) “Department activity” means an activity, event, class, program, operation, service, or product for the benefit, enjoyment, education, amusement, or convenience of the public.

(4) “Designated Organizations” means entities designated by the Director pursuant to § 10-137.01.

(5) “Fee-based use permit” means a permit issued by the Department to a person for a fee-based Department activity.

(6) “Friends Groups” means an organization, qualified under section 501(c)(3) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 501(c)(3)), and registered under the park partner program, whose mission includes supporting an adopted park or recreation facility by advocating, fundraising, maintaining, and assisting in the planning process for the park or recreation facility adopted.

(7) “Park Partner Agreement” means the agreement between the Department and the Friends Group explaining the duties, rights, and obligations of the Friends Group.

(8) “Planned Unit Development” means a plan for the development of residential, institutional, and commercial developments, industrial parks, urban renewal projects, or a combination of these as defined in the Zoning Regulations of the District of Columbia (11 DCMR § 199).

(9) The term “sponsor” means to pledge or promise support to a program, site, or operation on an intermittent, short-term or one-time basis.

(Mar. 23, 1995, D.C. Law 10-246, § 2, 42 DCR 452; Sept. 14, 2011, D.C. Law 19-21, § 6042(a), 58 DCR 6226; Apr. 23, 2013, D.C. Law 19-275, § 2(a), 60 DCR 2058; Apr. 23, 2013, D.C. Law 19-280, § 2(a), 60 DCR 2124.)

**Prior Codifications.** — 1981 Ed., § 8-301.

**Effect of amendments.** — D.C. Law 19-21 added pars. (1A) to (1D).

The 2013 amendment by D.C. Law 19-275 substituted “whose mission includes supporting” for “whose primary mission is to support” in (6).

The 2013 amendment by D.C. Law 19-280

added (2) and (3) and redesignated former (1A) as (4); added present (5); and redesignated former (1B) through (2) as (6) through (9), respectively.

**Emergency legislation.** — For temporary addition of chapter, see §§ 2-7 of the Recreation Emergency Act of 1995 (D.C. Act 11-20, February 28, 1995, 42 DCR 1175).

**Legislative history of Law 10-246.** — Law 10-246, the “Recreation Act of 1994,” was introduced in Council and assigned Bill No. 10-741, which was referred to the Committee on Public Services and Youth Affairs. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on January 13, 1995, it was assigned Act No. 10-393 and transmitted to both Houses of Congress for its review. D.C. Law 10-246 became effective on March 23, 1995.

**Legislative history of Law 19-21.** — Law 19-21, the “Fiscal Year 2012 Budget Support Act of 2011,” was introduced in Council and assigned Bill No. 19-203, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 25, 2011, and June 14, 2011, respectively. Signed by the Mayor on July 22, 2011, it was assigned Act No. 19-98 and transmitted to both Houses of Congress for its review. D.C. Law 19-21 became effective on September 14, 2011.

**Legislative history of Law 19-275.** — Law 19-275, the “Department of Parks and Recreation

Revenue Generation Clarification Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-757. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 25, 2013, it was assigned Act No. 19-639 and transmitted to Congress for its review. D.C. Law 19-275 became effective on April 23, 2013.

**Legislative history of Law 19-280.** — Law 19-280, the “Department of Parks and Recreation Fee-based Use Permit Authority Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-758. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 25, 2013, it was assigned Act No. 19-645 and transmitted to Congress for its review. D.C. Law 19-280 became effective on April 23, 2013.

**Short title.** — Short title: Section 6041 of D.C. Law 19-21 provided that subtitle E of title VI of the act may be cited as “Department of Parks and Recreation Revenue Generation Amendment Act of 2011”.

## § 10-302. Authority of Department of Recreation and Parks.

(a) The Department may accept donations, gifts by devise or bequest, grants, and any other type of asset from individuals, clubs, groups, corporations, partnerships, and other governmental entities, except that such acceptance must be approved by the Mayor before it occurs.

(b)(1) Department buildings and grounds may be used for fund-raising activities by the Department, Friends Groups, Designated Organizations, and for-profit organizations contracted for and supervised by the Department, Friends Groups, or Designated Organizations; provided, that Friends Groups and Designated Organizations may use Department buildings and grounds for fundraising activities no more than 12 times per year.

(2) Except with regard to fundraising activities by Friends Groups and Designated Organizations, the Department shall manage received property or funds in accordance with the provisions or conditions of the donation, gift, grant, or other type of transfer, including the investment of the principal of such property or funds. The Mayor shall consider the donor’s choice of which site, program, or operation should be the recipient of the property.

(3) All property and funds obtained by the Friends Groups and Designated Organizations shall be for the benefit of Department facilities or programs. All funds raised for or by Friends Groups and Designated Organizations shall be deposited in a dedicated bank account in the name of the Friends Group or Designated Organization and expended solely for improvements, costs, or services for the associated park, program, event, recreation facility, or other Department facility, in accordance with the terms of the Park Partner Agreement, if applicable.



(4) Friends Groups and Designated Organizations shall provide semianual accounting to the Department of all funds collected.

(b-1) On a property under its jurisdiction, control, or use, the Department may charge reasonable prices for department activities and issue fee-based use permits in accordance with § 10-302.01.

(c) Department buildings and grounds shall not be used for any commercial, profit-making, fundraising, or other solicitation by any agency, individual, or organization, except as specifically provided in this section.

(d) Nothing in this section shall be construed as limiting the Department's authority to issue permits pursuant to § 10-137.01.

(Mar. 23, 1995, D.C. Law 10-246, § 3, 42 DCR 452; Sept. 14, 2011, D.C. Law 19-21, § 6042(b), 58 DCR 6226; Apr. 23, 2013, D.C. Law 19-275, § 2(b), 60 DCR 2058; Apr. 23, 2013, D.C. Law 19-280, § 2(b), 60 DCR 2124.)

**Prior Codifications.** — 1981 Ed., § 8-302.

**Effect of amendments.** — D.C. Law 19-21 rewrote subsec. (b); and added subsec. (c). Prior to amendment, subsec. (b) read as follows: "(b) The Department shall manage such property or funds in accordance with the provisions or conditions of the donation, gift, grant or other type of transfer, including but not limited to the investment of the principal of such property or funds. The Mayor shall consider the donor's choice of which site, program or operation should be the recipient of the property."

The 2013 amendment by D.C. Law 19-275 rewrote (b)(3).

The 2013 amendment by D.C. Law 19-280 substituted "Department" for "Department of Recreation and Parks ('Department' or 'Departmental') in (a); and added (b-1) and (d).

**Emergency legislation.** — See Historical and Statutory Notes following § 10-301.

**Legislative history of Law 10-246.** — For legislative history of D.C. Law 10-246, see Historical and Statutory Notes following § 10-301.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-301.

**Legislative history of Law 19-275.** — See note to § 10-301.

**Legislative history of Law 19-280.** — See note to § 10-301.

**References in text.** — Pursuant to Mayor's Order 2000-20, the agency formerly known as the Department of Recreation and Parks shall be known as the Department of Parks and Recreation.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 10-246, the Recreation Act of 1994, see Mayor's Order 96-55, April 24, 1996 (43 DCR 2453).

## § 10-302.01. Fee-based use permits.

(a) The Department may issue a fee-based use permit on a property under its jurisdiction, control, or use, subject to such conditions as the Director may impose and only upon a determination that the use permit:

(1) Will meet the mission of the Department; and

(2) Will not adversely impact the use and enjoyment of the area by other members of the public.

(b) Fee-based use permits shall not be issued solely for their revenue-producing potential.

(Mar. 23, 1995, D.C. Law 10-246, § 3a, as added Apr. 23, 2013, D.C. Law 19-280, § 2(c), 60 DCR 2124.)

**Effect of amendments.** — D.C. Law 19-280 added this section.

**Legislative history of Law 19-280.** — See note to § 10-301.



**§ 10-302.02. Nutrition at Department facilities.**

(a) Except as provided in subsection (b) of this section, all food and beverages sold, offered, or provided by the Department or its agents through vending machines, concessions, stores, or other food venues on buildings, grounds, or other facilities under the Department's jurisdiction, control, or use shall meet the requirements of either:

(1) The United States Department of Agriculture's HealthierUS School Challenge program at the Gold Award Level for meals, competitive foods, and beverages as may be revised from time to time, notwithstanding any termination; or

(2) The Alliance for a Healthier Generation's school competitive foods and beverage guidelines at the high school level, as may be revised from time to time, notwithstanding any termination.

(b) The requirements of this section shall not apply to:

(1) An event, such as a festival or carnival, if the Director exempts the event, in writing, from the requirements of this section and the food or beverages are not sold;

(2) Foods or beverages offered or provided by Department employees for their own consumption;

(3) A farmers' market or produce cart, stand, or truck; provided, that at least one-half of the items offered or provided is fresh fruits or vegetables;

(4) Fund-raising activities held pursuant to § 10-302(b); or

(5) Foods or beverages sold, offered, or provided by a person as an ancillary part of its participation in a permitted activity or event; provided, that the person has applied for and received a fee-based use permit in accordance with § 10-302.01.

(c)(1) The Department shall seek to maximize its sponsorship of and the participation of eligible children and residents in federal nutrition programs.

(2) On or before June 1 of each year, the Department shall provide the manager or designated employee of each of its facilities with training and information on how to connect residents to nutrition supports, including the Supplemental Nutrition Assistance Program, federal child nutrition programs, nutrition education programs, and emergency food.

(d) The Department shall ensure that any foods or beverages sold, offered, or provided outside of federal nutrition programs do not negatively affect the participation of children and residents in federal nutrition programs.

(e)(1) Food or beverages may only be advertised or marketed on Department property if the items meet the nutritional standards set forth in this section.

(2) The requirements of this subsection shall apply to advertising:

(A) On scoreboards;

(B) On vending machines;

(C) At concession stands;

(D) On banners and signs;

(E) Through the sponsorship of teams, programs, and events; and

(F) Other forms of promotion, marketing, and advertising.

(Mar. 23, 1995, D.C. Law 10-246, § 3b, as added Apr. 23, 2013, D.C. Law 19-280, § 2(c), 60 DCR 2124.)

**Effect of amendments.** — D.C. Law 19-280 added this section.

**Legislative history of Law 19-280.** — See note to § 10-301.

### § 10-302.03. Priority for Department programs and facilities.

(a) The Department shall give preference to residents for enrollment and participation slots in sports leagues, teams, games, programs, and camps managed or sponsored by the Department for youth, adults, and seniors, before offering participation slots to non-residents.

(b) Within 180 days of April 23, 2013, the Department shall develop a plan to actively advertise and promote the activities listed in subsection (a) of this section to residents to encourage their participation.

(Mar. 23, 1995, D.C. Law 10-246, § 3c, as added Apr. 23, 2013, D.C. Law 19-280, § 2(c), 60 DCR 2124.)

**Effect of amendments.** — D.C. Law 19-280 added this section.

**Legislative history of Law 19-280.** — See note to § 10-301.

### § 10-303. Creation of Fund; accounting and investment.

(a) The Mayor shall establish for accounting and financial reporting purposes a Recreation Enterprise Fund ("Fund") in accordance with generally accepted accounting principles.

(b)(1) There is hereby authorized a direct appropriation to the Fund equal to the amount collected from fees, concessions, and services and payments by developers seeking relief from zoning laws by way of the Planned Unit Development process considered part of the required community benefits package of the proposed Planned Unit Development. Revenue deposited into the Fund account shall be expended by the Department for the administration, improvement, and maintenance of property and programs managed by the Department and shall supplement, but not replace, services provided by the Department; provided, that payments by developers seeking relief from zoning laws in accordance with the Zoning Regulations of the District of Columbia (11 DCMR § 100 et seq.) and the Planned Unit Development process shall be expended on Department property within the boundaries of the Advisory Neighborhood Commission in which the Planned Unit Development is located. The Fund shall not be used to provide funding to other District government agencies, except to pay the principal and interest on bonds in accordance with § 10-304.

(2) Proceeds from the Recreation Enterprise Fund may be used to purchase food, snacks, and non-alcoholic beverages for the general public, Department of Parks and Recreation program participants, and District government employees.

(c)(1) Once each year, the Department shall publish in the District of Columbia Register a specific accounting of how monies in the Fund have been spent and an accounting as to the amount remaining in the Fund. The accounting shall include the name of the donor or an anonymous contribution,



the amount of the contribution, a description of the property donated and the name of the program or recreation center upon which the funds have been expended.

(2) All funds received but not expended in a fiscal year shall revert to the unrestricted fund balance of the General Fund of the District of Columbia.

(d) Proceeds of the Fund may be invested in a prudent and reasonable manner consistent with applicable District government policies and procedures with recommendations from the Recreation Assistance Board established by § 10-306.

(e)(1) Notwithstanding any other provision of law, the Department may contract for advertisements and sponsorships for programs, events, recreation centers, fields, pools, play courts, and other Department facilities within the Department's inventory.

(2) The Department shall not delegate the authority to contract for advertisements or sponsorships granted to it pursuant to paragraph (1) of this subsection to any other party.

(3) All proceeds received from advertisements and sponsorships shall be deposited into the Fund pursuant to this section.

(Mar. 23, 1995, D.C. Law 10-246, § 4, 42 DCR 452; Apr. 18, 1996, D.C. Law 11-110, § 20(a), 43 DCR 530; Mar. 3, 2010, D.C. Law 18-111, § 5091, 57 DCR 181; Sept. 14, 2011, D.C. Law 19-21, §§ 6042(c), 9064, 58 DCR 6226; Apr. 23, 2013, D.C. Law 19-275, § 2(c), 60 DCR 2058.)

**Section references.** — This section is referenced in § 10-306.

**Prior Codifications.** — 1981 Ed., § 8-303.

**Effect of amendments.** — D.C. Law 18-111, in subsec. (b), designated the existing text as par. (1) and added par. (2).

D.C. Law 19-21, in subsec. (b)(1), substituted “and services and payments by developers seeking relief from zoning laws by way of the Planned Unit Development process considered part of the required community benefits package of the proposed Planned Unit Development.” for “and services.”, and substituted “provided by the Department; provided, that payments by developers seeking relief from zoning laws in accordance with the Zoning Regulations of the District of Columbia (11 DCMR § 100 et seq.) and the Planned Unit Development process shall be expended on Department property within the boundaries of the Advisory Neighborhood Commission in which the Planned Unit Development is located.”; in subsec. (c), designated the existing text as par. (1) and added par. (2); and added subsec. (e).

The 2013 amendment by D.C. Law 19-275 rewrote (e)(1).

**Temporary Amendment of Section.** — Section 2 of D.C. Law 17-239, in subsec. (b), designated the existing text as par. (1); and added par. (2) to read as follows:

“(2) Proceeds from the Recreation Enterprise Fund may be used to purchase food, snacks,

and non-alcoholic beverages for the general public, Department of Parks and Recreation program participants, and District government employees.”.

Section 4(b) of D.C. Law 17-239 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — See Historical and Statutory Notes following § 10-301.

For temporary (90 day) amendment, see § 2 of Recreation Enterprise Fund Emergency Amendment Act of 2008 (D.C. Act 17-425, July 16, 2008, 55 DCR 8246).

For temporary (90 day) amendment of section, see § 2 of Recreation Enterprise Fund Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-549, October 24, 2008, 55 DCR 11981).

For temporary (90 day) amendment of section, see § 5091 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 5091 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 2 of Department of Parks and Recreation Advertisement Authority Emergency Amendment Act of 2009 (D.C. Act 18-303, January 26, 2010, 57 DCR 1224).



**Legislative history of Law 10-246.** — For legislative history of D.C. Law 10-246, see Historical and Statutory Notes following § 10-301.

**Legislative history of Law 11-110.** — Law 11-110, the “Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

**Legislative history of Law 18-111.** — Law 18-111, the “Fiscal Year 2010 Budget Support Act of 2009,” was introduced in Council and

assigned Bill No. 18-203, which was referred to the Committee on the Whole. The bill was adopted on first and second readings on May 12, 2009, and September 22, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-255 and transmitted to both Houses of Congress for its review. D.C. Law 18-111 became effective on March 3, 2010.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-301.

**Legislative history of Law 19-275.** — See note to § 10-301.

**Short title.** — Short title: Section 5090 of D.C. Law 18-111 provided that subtitle J of title V of the act may be cited as the “Recreation Enterprise Fund Amendment Act of 2009”.

## § 10-304. Park adoptions and sponsorships.

(a) Individuals, associations, corporations, partnerships, neighborhood and civic groups or other governmental entities may adopt or sponsor Departmental programs, sites, or operations. The form of such adoption or sponsorship may be made by a donation of funds to the Fund, services, equipment, or any other asset with intrinsic value. The Department may form partnerships with any of the above stated groups to accomplish a stated goal or mission of the Department.

(b) The Department shall, within 1 year from March 23, 1995, promulgate regulations appropriate for the full implementation of this chapter including regulations related to park adoptions and sponsorships, vending and concessions fees, and permits.

(Mar. 23, 1995, D.C. Law 10-246, § 5, 42 DCR 452; Apr. 18, 1996, D.C. Law 11-110, § 20(b), 43 DCR 530.)

**Section references.** — This section is referenced in § 10-303.

**Prior Codifications.** — 1981 Ed., § 8-304.

**Emergency legislation.** — See Historical and Statutory Notes following § 10-301.

**Legislative history of Law 10-246.** — For

legislative history of D.C. Law 10-246, see Historical and Statutory Notes following § 10-301.

**Legislative history of Law 11-110.** — For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 10-303.

## § 10-305. Mega recreation centers.

The Mayor shall develop, construct, and implement mega recreation centers in strategic locations throughout the District of Columbia. Such centers shall be spacious enough to accommodate several indoor activities simultaneously and contain state of the art equipment and apparatus.

(Mar. 23, 1995, D.C. Law 10-246, § 6, 42 DCR 452.)

**Prior Codifications.** — 1981 Ed., § 8-305.

**Emergency legislation.** — See Historical and Statutory Notes following § 10-301.

**Legislative history of Law 10-246.** — For legislative history of D.C. Law 10-246, see Historical and Statutory Notes following § 10-301.

## § 10-306. Establishment of Recreation Assistance Board.

(a) There is hereby created a Recreation Assistance Board ("Board") that shall consist of 9 members that represent the following interests:

- (1) Two members from the corporate or business sector;
- (2) Two members who are District residents that have demonstrated a sincere interest in recreational activities with 1 member being an advocate for youth issues;
- (3) A representative of the District of Columbia Board of Education;
- (4) A representative from the arts or music community;
- (5) A representative of therapeutic or senior citizens;
- (6) The President and Chief Executive Officer of the Washington Convention and Sports Authority; and
- (7) The Director of the Department of Recreation and Parks or that person's designee who shall serve as the Secretary of the Board.

(b) Board members shall be appointed by the Mayor for 4 year terms of office and shall serve without compensation.

(c) The Mayor shall appoint a member of the Board as its Chairperson. The Committee may elect other officers from its membership as it deems necessary.

(d) The Board shall provide resources and expertise on all matters relating to the mission of the Department with special emphasis on fundraising assistance, marketing of programs, and recommendations regarding the expenditure and growth of the Fund established in § 10-303.

(e) The Board may provide guidance on methods of developing and improving recreation programs, conduct public meetings, promote public awareness of recreational programs, and assist on other issues relating to the general purpose of the Department.

(f) The Board shall act as a liaison with the existing Recreation Council Community Management Committees, and other focus groups relative to issues associated with this chapter.

(Mar. 23, 1995, D.C. Law 10-246, § 7, 42 DCR 452; Apr. 18, 1996, D.C. Law 11-110, § 20(c), 43 DCR 530; June 12, 1999, D.C. Law 12-285, § 4(l), 46 DCR 1355; Mar. 3, 2010, D.C. Law 18-111, § 2082(k), 57 DCR 181; Apr. 8, 2011, D.C. Law 18-356, § 4, 58 DCR 760.)

**Section references.** — This section is referenced in § 10-303.

**Prior Codifications.** — 1981 Ed., § 8-306.

**Effect of amendments.** — D.C. Law 18-111 rewrote subsec. (a)(6), which had as follows: "(6) The Executive Director of the District of Columbia Sports Commission; and"

D.C. Law 18-356 rewrote subsec. (a)(6), which formerly read:

"(6) The Chief Executive Officer and General Manager of the Washington Convention and Sports Authority; and"

**Temporary Amendment of Section.** — Section 3 of D.C. Law 18-266 rewrote subsec. (a)(6) to read as follows:

"(6) The President and Chief Executive Offi-

cer of the Washington Convention and Sports Authority; and".

Section 5(b) of D.C. Law 18-266 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — See Historical and Statutory Notes following § 10-301.

For temporary amendment of section, see § 4(l) of the Confirmation Emergency Amendment Act of 1999 (D.C. Act 13-25, March 15, 1999, 46 DCR 2971).

Section 6 of D.C. Act 13-25 provides for the application of the act.

For temporary (90-day) amendment of section, see § 4(l) of the Confirmation Act Congressional Review Emergency Amendment Act



of 1999 (D.C. Act 13-92, June 4, 1999, 46 DCR 5330).

For temporary (90 day) amendment of section, see § 2082(k) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2082(k) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 3 of Washington Convention and Sports Authority Emergency Amendment Act of 2010 (D.C. Act 18-504, July 30, 2010, 57 DCR 7578).

For temporary (90 day) amendment of section, see § 3 of Washington Convention and Sports Authority Congressional Review Emergency Amendment Act of 2010 (D.C. Act 18-580, October 19, 2010, 57 DCR 10113).

**Legislative history of Law 10-246.** — For legislative history of D.C. Law 10-246, see Historical and Statutory Notes following § 10-301.

**Legislative history of Law 11-110.** — For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 10-303.

**Legislative history of Law 12-285.** — Law 12-285, the “Confirmation Amendment Act of

1998,” was introduced in Council and assigned Bill No. 12-261. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Vetoes by the Mayor on December 29, 1998, Council overrode the veto on January 5, 1999, and the bill was assigned Act No. 12-622 and transmitted to both Houses of Congress for its review. D.C. Law 12-285 became effective on June 12, 1999.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Legislative history of Law 18-356.** — Law 18-356, the “Washington Convention and Sports Authority Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-1046, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 19, 2011, it was assigned Act No. 18-706 and transmitted to both Houses of Congress for its review. D.C. Law 18-356 became effective on April 8, 2011.

**References in text.** — Pursuant to Mayor’s Order 2000-20, the agency formerly known as the Department of Recreation and Parks shall be known as the Department of Parks and Recreation.

## § 10-307. Rules.

(a) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this chapter. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, by resolution, within the 30-day review period, the proposed rules shall be deemed approved.

(b)(1) Within 180 days of April 23, 2013, the Mayor shall issue rules, which shall:

(A) Ensure maximum permissible use of Department areas and facilities by appropriate distribution of users, with special attention to the balance of uses between Department programs, community uses, and fee-based uses;

(B) Ensure equitable access to fee-based uses through provisions for modest, reduced, or waived fees;

(C) Ensure proper, orderly, and equitable use through scheduling;

(D) Ensure protection and preservation of areas and facilities by not overtaxing facilities;

(E) Promote the health, safety, and welfare of users;

(F) Establish clear procedures for obtaining permits and revocation of permits; and

(G) Update the entire Department fee and permit schedules, maintaining a lower cost for residents.

(2) The authority granted to the Department in § 10-302(b-1) and (d),



§ 10-302.01, and § 10-302.02 shall not be exercised until the rules required by paragraph (1) of this subsection have been adopted.

(Mar. 23, 1995, D.C. Law 10-246, § 7a, as added Sept. 14, 2011, D.C. Law 19-21, § 6042(d), 58 DCR 6226; Apr. 23, 2013, D.C. Law 19-280, § 2(d), 60 DCR 2124.)

**Effect of amendments.** — The 2013 amendment by D.C. Law 19-280 redesignated the existing paragraph as (a); and added (b).

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-301.

**Legislative history of Law 19-280.** — See note to § 10-301.

## CHAPTER 4. RECREATION VOLUNTEER BACKGROUND CHECK AND SCREENING.

Sec.

10-401 to 10-413. [Repealed].

## § 10-401. Definitions. [Repealed].

Repealed.

(May 23, 2000, D.C. Law 13-123, § 2, 47 DCR 2050; Apr. 13, 2005, D.C. Law 15-353, § 251, 52 DCR 2331.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 251 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

**Legislative history of Law 13-123.** — Law 13-123, the “Recreation Volunteer Background Check and Screening Act of 2000,” was introduced in Council and assigned Bill No. 13-303, which was referred to the Committee on Education, Libraries and Recreation. The Bill was adopted on first and second readings on January 4, 2000, and February 1, 2000, respectively. Signed by the Mayor on February 23, 2000, it was assigned Act No. 13-289 and transmitted to

both Houses of Congress for its review. D.C. Law 13-123 became effective on May 23, 2000.

**Legislative history of Law 15-353.** — Law 15-353, the “Child and Youth, Safety and Health Omnibus Amendment Act of 2004,” was introduced in Council and assigned Bill No. 15-607 which was referred to the Committees on Human Services, Finance and Revenue, and Education, Libraries and Recreation. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 19, 2005, it was assigned Act No. 15-759 and transmitted to both Houses of Congress for its review. D.C. Law 15-353 became effective on April 13, 2005.

## § 10-402. Criminal background investigation requirement. [Repealed].

Repealed.

(May 23, 2000, D.C. Law 13-123, § 3, 47 DCR 2050; Apr. 13, 2005, D.C. Law 15-353, § 251, 52 DCR 2331.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 251 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

**Legislative history of Law 13-123.** — For Law 13-123, see notes following § 10-401.

**Legislative history of Law 15-353.** — For Law 15-353, see notes following § 10-401.

## § 10-403. Request for criminal background investigation. [Repealed].

Repealed.

(May 23, 2000, D.C. Law 13-123, § 4, 47 DCR 2050; Apr. 13, 2005, D.C. Law 15-353, § 251, 52 DCR 2331.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 251 of Child and Youth, Safety and Health Omnibus Con-

gressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

**Legislative history of Law 13-123.** — For Law 13-123, see notes following § 10-401.

**Legislative history of Law 15-353.** — For Law 15-353, see notes following § 10-401.

**§ 10-404. Authorization to obtain records, notification of criminal background check and traffic record check. [Repealed].**

Repealed.

(May 23, 2000, D.C. Law 13-123, § 5, 47 DCR 2050; Apr. 13, 2005, D.C. Law 15-353, § 251, 52 DCR 2331.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 251 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

**Legislative history of Law 13-123.** — For Law 13-123, see notes following § 10-401.

**Legislative history of Law 15-353.** — For Law 15-353, see notes following § 10-401.

**§ 10-405. Criminal background checks. [Repealed].**

Repealed.

(May 23, 2000, D.C. Law 13-123, § 6, 47 DCR 2050; Apr. 13, 2005, D.C. Law 15-353, § 251, 52 DCR 2331.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 251 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

**Legislative history of Law 13-123.** — For Law 13-123, see notes following § 10-401.

**Legislative history of Law 15-353.** — For Law 15-353, see notes following § 10-401.

**§ 10-406. Traffic record checks. [Repealed].**

Repealed.

(May 23, 2000, D.C. Law 13-123, § 7, 47 DCR 2050; Apr. 13, 2005, D.C. Law 15-353, § 251, 52 DCR 2331.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 251 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

**Legislative history of Law 13-123.** — For Law 13-123, see notes following § 10-401.

**Legislative history of Law 15-353.** — For Law 15-353, see notes following § 10-401.

**§ 10-407. Offer of certified volunteer position pending receipt of criminal history and traffic check reports. [Repealed].**

Repealed.

(May 23, 2000, D.C. Law 13-123, § 8, 47 DCR 2050; Apr. 13, 2005, D.C. Law 15-353, § 251, 52 DCR 2331.)



**Emergency legislation.** — For temporary (90 day) repeal of section, see § 251 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

**Legislative history of Law 13-123.** — For Law 13-123, see notes following § 10-401.

**Legislative history of Law 15-353.** — For Law 15-353, see notes following § 10-401.

## § 10-408. Disqualification of volunteer or termination of performance of volunteer services. [Repealed].

Repealed.

(May 23, 2000, D.C. Law 13-123, § 9, 47 DCR 2050; Apr. 13, 2005, D.C. Law 15-353, § 251, 52 DCR 2331.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 251 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

**Legislative history of Law 13-123.** — For Law 13-123, see notes following § 10-401.

**Legislative history of Law 15-353.** — For Law 15-353, see notes following § 10-401.

## § 10-409. Payment of processing fees. [Repealed].

Repealed.

(May 23, 2000, D.C. Law 13-123, § 10, 47 DCR 2050; Apr. 13, 2005, D.C. Law 15-353, § 251, 52 DCR 2331.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 251 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

**Legislative history of Law 13-123.** — For Law 13-123, see notes following § 10-401.

**Legislative history of Law 15-353.** — For Law 15-353, see notes following § 10-401.

## § 10-410. Penalty for providing false information. [Repealed].

Repealed.

(May 23, 2000, D.C. Law 13-123, § 11, 47 DCR 2050; Apr. 13, 2005, D.C. Law 15-353, § 251, 52 DCR 2331.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 251 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

**Legislative history of Law 13-123.** — For Law 13-123, see notes following § 10-401.

**Legislative history of Law 15-353.** — For Law 15-353, see notes following § 10-401.

## § 10-411. Confidentiality of information to be maintained. [Repealed].

Repealed.

(May 23, 2000, D.C. Law 13-123, § 12, 47 DCR 2050; Apr. 13, 2005, D.C. Law 15-353, § 251, 52 DCR 2331.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 251 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

**Legislative history of Law 13-123.** — For Law 13-123, see notes following § 10-401.

**Legislative history of Law 15-353.** — For Law 15-353, see notes following § 10-401.

## § 10-412. Penalties for violations of this chapter. [Repealed].

Repealed.

(May 23, 2000, D.C. Law 13-123, § 13, 47 DCR 2050; Apr. 13, 2005, D.C. Law 15-353, § 251, 52 DCR 2331.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 251 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

**Legislative history of Law 13-123.** — For Law 13-123, see notes following § 10-401.

**Legislative history of Law 15-353.** — For Law 15-353, see notes following § 10-401.

## § 10-413. Rules. [Repealed].

Repealed.

(May 23, 2000, D.C. Law 13-123, § 14, 47 DCR 2050; Apr. 13, 2005, D.C. Law 15-353, § 251, 52 DCR 2331.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 251 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

**Legislative history of Law 13-123.** — For Law 13-123, see notes following § 10-401.

**Legislative history of Law 15-353.** — For Law 15-353, see notes following § 10-401.

## SUBTITLE II. PUBLIC BUILDINGS AND GROUNDS.

### CHAPTER 5. REGULATORY PROVISIONS.

#### *Subchapter I. Wharf Property*

Sec.

- 10-501.01. Control.
- 10-501.02. Authority to make rules and regulations.
- 10-501.03. Furnishing to buildings in Judiciary Square.
- 10-501.04. Furnishing to buildings enumerated in section.

#### *Subchapter II. Capitol Grounds*

##### PART A

##### Authority to Make Regulations; Duty of Capitol Police

- 10-503.01. Authority to make regulations.
- 10-503.02. Duty of Capitol Police.

##### PART B

##### General

- 10-503.11. Boundaries; jurisdiction of Architect; responsibilities of Mayor.
- 10-503.12. Public travel in and occupancy of restricted.
- 10-503.13. Obstruction of roads.
- 10-503.14. Sale of goods, advertising, or begging forbidden.
- 10-503.15. Removal or injury of property forbidden.
- 10-503.16. Unlawful conduct.
- 10-503.17. Parades, assemblages, and displays forbidden.
- 10-503.18. Prosecution and punishment of offenses.
- 10-503.19. Policing.
- 10-503.20. Protection of Congressional personnel by Capitol Police.
- 10-503.21. Employees to assist enforcement authorities.
- 10-503.22. Suspension of prohibitions against use — Authorization generally.
- 10-503.23. Suspension of prohibitions against use — Authorization generally — Authorization of Capitol Police Board.
- 10-503.24. Suspension of prohibitions against use — Concerts.
- 10-503.25. Suspension of prohibitions against use — Traffic regulations by Capitol Police Board.
- 10-503.26. Definitions.

#### *Subchapter III. Details and Transfers from MPD to Capitol Police*

##### PART A

##### Details

Sec.

- 10-505.01. Detail of personnel from Metropolitan Police to Capitol Police Board.

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- 10-505.02. Transfer of member of Metropolitan Police to Capitol Police — Election.
- 10-505.03. Transfer of member of Metropolitan Police to Capitol Police — Creditable service as congressional employee.
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- 10-505.05. Transfer of member of Metropolitan Police to Capitol Police — Definitions.
- 10-505.06. Transfer of member of Metropolitan Police to Capitol Police — Appropriations.
- 10-505.07. Transfer of member of Metropolitan Police to Capitol Police — Effective date.

#### *Subchapter IV. Control of District Buildings*

- 10-507.01. Control of District of Columbia buildings.

#### *Subchapter V. Protection of Property Outside of District*

- 10-509.01. Designation of District employees to protect life and property outside the District; powers of arrest; weapons and uniforms.
- 10-509.01a. Escape from juvenile facilities.
- 10-509.02. Council authorized to make rules and regulations.
- 10-509.03. Penalty for violation of rules and regulations.
- 10-509.04. Acceptance of collateral for appearance before United States Magistrate; deposit of collateral.
- 10-509.05. Reciprocal agreements with states.

#### *Subchapter VI. Capitol Grounds and Botanic Garden Tunnel*

- 10-511.01. Tunnel under Capitol Grounds and



Sec.

- Botanic Garden grounds — Required.
- 10-511.02. Tunnel under Capitol Grounds and Botanic Garden grounds — Construction.
- 10-511.03. Tunnel under Capitol Grounds and Botanic Garden grounds — Right, title and interest to remain in the United States; jurisdiction and responsibility of Mayor.
- 10-511.04. Tunnel under Capitol Grounds and Botanic Garden grounds — Restoration of grounds to original condition.

Sec.

- 10-511.05. Tunnel under Capitol Grounds and Botanic Garden grounds — United States not to incur expense or liability.
- 10-511.06. Conveyance of real property for Innerloop Freeway System.
- 10-511.07. Area authorized for construction of vehicular tunnel; conditions.
- Subchapter VII. Federal Activities Affecting District Property*
- 10-513.01. [Repealed].

### *Subchapter I. Wharf Property.*

## § 10-501.01. Control.

With the exceptions hereinafter provided, the Mayor of the District of Columbia shall have the exclusive charge and control of all wharf property belonging to the United States or to the District of Columbia within said District, including all the wharves, piers, bulkheads, and structures thereon and waters adjacent thereto within the pier lines, and all slips, basins, docks, waterfronts, land under water, and structures thereon, and the appurtenances, easements, uses, reversions, and rights belonging thereto, which on March 3, 1899, were owned or possessed by the United States or the District of Columbia, or to which they or either of them was on that date or may thereafter become entitled, or which they or either of them may acquire under the provisions hereof or otherwise; and said Mayor of the District of Columbia shall have exclusive charge and control of the repairing, building, rebuilding, maintaining, altering, strengthening, leasing, and protecting said property and every part thereof, and all the cleaning, dredging, and deepening necessary in and about the same within the pier lines. The Council of the District of Columbia is authorized and empowered to make all needful rules and regulations for the government and control of all wharves, piers, bulkheads, and structures thereon, and waters adjacent thereto within the pier lines, and all the basins, slips, and docks, with the land under water, in said District not owned by the United States or the District of Columbia; provided, that the following described property shall be placed under the immediate jurisdiction and control of the Chief of Engineers of the United States Army: the banks of the Potomac River from the north line of the Arsenal Grounds to the southern curb line of N Street South; also 500 linear feet of shoreline in the Flushing Reservoir at the foot of 17th Street, West, and west from the western curb of said street, including a levee 100 feet wide.

(Mar. 3, 1899, 30 Stat. 1377, ch. 458, § 1.)

**Cross references.** — Fish wharf, jurisdiction and control over, see § 37-205.01.  
Harbor regulations, see § 22-4401 et seq.

Title to housing redevelopment property, transfers from mayoral jurisdiction, see § 6-321.03.

**Section references.** — This section is referenced in § 6-321.03 and § 10-501.02.

**Prior Codifications.** — 1981 Ed., § 9-101. 1973 Ed., § 9-101.

**Delegation of Authority.** — Delegation of authority to National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007, see Mayor's Order 2007-172, July 25, 2007 (54 DCR 11600).

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(186) of Reorganization Plan No. 3 of 1967 (see Reor-

ganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### In general.

Persons claiming as riparian owners held not entitled to mandamus to compel Secretary of War and Chief of Engineers to authorize construction of wharf in Potomac river, where government Park Commission contemplated taking river bed and banks for parkway. 33 U.S.C. § 403. U.S. ex rel. Greathouse v. Dern, 53 S.Ct. 614, 1933 U.S. LEXIS 931 (U.S. Dist. Col. 1933).

Congress has plenary power to control navigation on Potomac river in district of Columbia, with proprietary powers over lands lying under water. U.S. Const. art. 1, § 8, cl. 17. U.S. ex rel. Greathouse v. Dern, 53 S.Ct. 614, 1933 U.S. LEXIS 931 (U.S. Dist. Col. 1933).

Congress has granted power to Commissioners of District of Columbia to establish riparian boundaries. D.C. Code 1940, § 9-101. *Martin v. Standard Oil Co. of N.J.*, 198 F.2d 523, 1952 U.S. App. LEXIS 3959 (C.A.D.C. 1952).

Where contract to buy and sell land provided that it should be void in event property were not made available for industrial use with wharfage facilities and pipe line privilege, evidence regarding whether vendor was able, ready and willing to perform the condition precedent and regarding vendor's ability to deliver good title, justified verdict for vendor in action against purchaser. *Friedman v. Decatur Corporation*, 135 F.2d 812, 1943 U.S. App. LEXIS 3424 (1943).

Compact between Maryland and Virginia recognizing property rights of respective citizens, as riparian owners, in shores of Potomac river, held not in force in District of Columbia. U.S. ex rel. Greathouse v. Hurley, 63 F.2d 137, 1933 U.S. App. LEXIS 3343 (1933).

Secretary of War, acting in discretionary capacity, need not state specific grounds for refusing permit to erect structure in navigable wa-

ters (33 U.S.C. § 403). U.S. ex rel. Greathouse v. Hurley, 63 F.2d 137, 1933 U.S. App. LEXIS 3343 (1933).

Sovereign has power to regulate and control lands flowed by tide. U.S. ex rel. Greathouse v. Hurley, 63 F.2d 137, 1933 U.S. App. LEXIS 3343 (1933).

Refusal of permit for erection of wharf in Potomac river within District of Columbia held within Secretary's discretion, in view of congressional acts looking to use of shore lands for parkway (33 U.S.C. § 403; 40 U.S.C. §§ 71-73; Act May 29, 1930 [46 Stat. 482]). U.S. ex rel. Greathouse v. Hurley, 63 F.2d 137, 1933 U.S. App. LEXIS 3343 (1933).

In determining whether vendor suing purchaser for breach of contract for sale of lots in Square 1067 on 15th Street, S.E., near the Anacostia river in Washington, D.C., had ability to obtain wharfage facilities and privilege of running pipe line from wharf to lots as required by contract, Commissioners of District of Columbia, National Capital Park and Planning Commission, and United States Engineers Office had legal authority to make decisions, involving eventual granting of such facilities and privilege. 40 U.S.C. §§ 60, 71, 107, 108; D.C. Code 1929, T. 20, § 1579; Navigation Act 1899, § 10, 33 U.S.C. § 403; Act Aug. 27, 1935, 49 Stat. 895. *Decatur Corporation v. Friedman*, 39 F.Supp. 692, 1941 U.S. Dist. LEXIS 3030 (D.D.C. 1941).

In vendor's action against purchaser for breach of contract for sale of land, wherein vendor's ability to obtain wharfage facilities was an issue, what the vendor, acting through his attorney, obtained from United States Engineers Office, which was one of the government agencies from which wharfage facilities were to be obtained, was pertinent, and attorney's testimony as to what attorney had ob-



tained from office in way of such facilities was admissible. *Decatur Corporation v. Friedman*, 39 F.Supp. 692, 1941 U.S. Dist. LEXIS 3030 (D.D.C.1941).

In vendor's action against purchaser for breach of contract for sale of lots in Square 1067 on 15th Street, S.E., near Anacostia river in Washington, D.C., which contract required vendor to obtain wharfage facilities and privilege of running pipe line from wharf to lots, refusal to instruct that neither Secretary of War nor any governmental agency under Secretary of War

nor District of Columbia nor commissioners thereof were empowered to lease 15th Street, S.E., at the water front to the vendor or to lease such street for private purposes on ground that 15th Street, S.E., at the water front was a public street, was not error. 40 U.S.C. §§ 60, 71, 107, 108; D.C. Code 1929, T. 20, § 1579; Navigation Act 1899, § 10, 33 U.S.C. § 403; Act Aug. 27, 1935, 49 Stat. 895. *Decatur Corporation v. Friedman*, 39 F.Supp. 692, 1941 U.S. Dist. LEXIS 3030 (D.D.C.1941).

## § 10-501.02. Authority to make rules and regulations.

(a) The Council of the District of Columbia and the Chief of Engineers of the United States Army are authorized and empowered to make all needful rules and regulations for the government and proper care of all the property placed in the charge of the Mayor of the District of Columbia and the Chief of Engineers and under their respective control by the provisions of § 10-501.01 and to annex such reasonable penalties to said rules and regulations as will secure their enforcement; and also the Council and the Chief of Engineers are authorized and empowered to make, and the Mayor and the Chief of Engineers to enforce, rules and regulations in regard to building and repairing wharves, the rental thereof, and the rate of wharfage. All rents so collected shall be covered into the Treasury of the United States, to be placed to the credit of the United States and to the credit of the General Fund of the District of Columbia.

(b) The wharfage fee is \$25 per day.

(Mar. 3, 1899, 30 Stat. 1378, ch. 458, § 2; Feb. 22, 1921, 41 Stat. 1144, ch. 70, § 7; June 28, 1944, 58 Stat. 533, ch. 300, § 18; June 5, 2003, D.C. Law 14-307, § 1602, 49 DCR 11664; Mar. 11, 2009, 123 Stat. 700, Pub. L. 111-8, § 823.)

**Cross references.** — Harbor regulations, see §§ 22-4401 to 22-4403.

Metropolitan Police, enforcement of regulations for harbor, see § 5-105.05.

Rental of fish wharf, see § 37-205.01.

**Prior Codifications.** — 1981 Ed., § 9-102. 1973 Ed., § 9-102.

**Effect of amendments.** — D.C. Law 14-307 designated the existing text as subsection (a); and added subsec. (b).

Pub. L. 111-8, in subsec. (a), deleted the last sentence, which had read as follows: "No lease made under the provisions of said § 10-501.01 shall extend beyond the period of 10 years."

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 1602 of Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 1602 of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1602 of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

**Legislative history of Law 14-307.** — Law 14-307, the "Fiscal Year 2003 Budget Support Amendment Act of 2002", was introduced in Council and assigned Bill No. 14-892, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on October 1, 2002, and November 7, 2002, respectively. Signed by the Mayor on December 4, 2002, it was assigned Act No. 14-543 and transmitted to both Houses of Congress for its review. D.C. Law 14-307 became effective on June 5, 2003.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(187)



of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the

District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-501.03. Furnishing to buildings in Judiciary Square.

The Secretary of the Interior, through the National Park Service, is authorized to furnish steam from the Central Heating Plant to such buildings as may be erected by the District of Columbia on the property bounded by 4th and 5th Streets, and D and G Streets, Northwest, in the District of Columbia, and known as Judiciary Square; provided, that the District of Columbia agrees to pay for the steam furnished at reasonable rates, not less than cost, as may be determined by the Secretary of the Interior; and provided further, that the District of Columbia agrees to provide all necessary connections with the government mains at its own expense, and in a manner satisfactory to the Secretary of the Interior.

(Apr. 27, 1937, 50 Stat. 95, ch. 136.)

**Prior Codifications.** — 1981 Ed., § 9-103. 1973 Ed., § 9-103.

### § 10-501.04. Furnishing to buildings enumerated in section.

The Secretary of the Interior, through the National Park Service, is authorized to furnish steam from the Central Heating Plant to such buildings as may be erected by the District of Columbia on the property in the District of Columbia bounded by C Street, 3rd Street, Indiana Avenue, D Street, and John Marshall Place Northwest, and known as square 533; on the property bounded by C Street, John Marshall Place, Louisiana Avenue, and 6th Street Northwest, and known as square 490; on the property bounded by Pennsylvania Avenue, John Marshall Place, C Street, and 6th Street Northwest, and known as square 491; and on the property bounded by Pennsylvania Avenue, 3rd Street, C Street, and John Marshall Place Northwest, and known as reservation 10; provided, that the District of Columbia agrees to pay for the steam furnished at reasonable rates, not less than cost, as may be determined by the Secretary of the Interior; and provided further, that the District of Columbia agrees to provide all necessary connections with the government mains at its own expense, and in a manner satisfactory to the Secretary of the Interior.

(June 21, 1939, 53 Stat. 852, ch. 236.)

**Prior Codifications.** — 1981 Ed., § 9-104.  
1973 Ed., § 9-104.

**Editor's notes.** — National Academy of Sciences: Act of June 29, 1940, 54 Stat. 694, ch.

451, authorized the furnishing of steam from the Central Heating Plant to the National Academy of Sciences.

## *Subchapter II. Capitol Grounds.*

### PART A.

#### AUTHORITY TO MAKE REGULATIONS; DUTY OF CAPITOL POLICE.

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#### § 10-503.01. Authority to make regulations.

The Sergeants at Arms of the Senate and of the House of Representatives are authorized to make such regulations as they may deem necessary for preserving the peace and securing the Capitol from defacement, and for the protection of the public property therein, and they shall have power to arrest and detain any person violating such regulations, until such person can be brought before the proper authorities for trial.

(R.S., § 1820.)

**Cross references.** — Metropolitan Police jurisdiction, see § 5-133.02.

United States Park Police, see § 5-201 et seq.

**Prior Codifications.** — 1981 Ed., § 9-105.  
1973 Ed., § 9-105.

**Editor's notes.** — Enlargement of Capitol Grounds: Act of March 4, 1929, 45 Stat. 1694, ch. 708, as amended, provided for the enlargement of the Capitol Grounds.

#### § 10-503.02. Duty of Capitol Police.

It shall be the duty of the Capitol Police hereafter to prevent any portion of the Capitol Grounds and terraces from being used as playgrounds or otherwise, so far as may be necessary to protect the public property, turf and grass from destruction.

(Apr. 29, 1876, 19 Stat. 41, ch. 86.)

**Prior Codifications.** — 1981 Ed., § 9-107.

1973 Ed., § 9-118a.

### PART B.

#### GENERAL.

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#### § 10-503.11. Boundaries; jurisdiction of Architect; responsibilities of Mayor.

The United States Capitol Grounds shall comprise all squares, reservations, streets, roadways, walks, and other areas as defined on a map entitled "Map showing areas comprising United States Capitol Grounds", dated June 25, 1946, approved by the Architect of the Capitol and recorded in the Office of the

Surveyor of the District of Columbia in Book 127, Page 8, including all additions added thereto by law subsequent to June 25, 1946, and the jurisdiction and control over the United States Capitol Grounds, vested prior to July 31, 1946 by law in the Architect of the Capitol, is extended to the entire area of the United States Capitol Grounds, and the Architect of the Capitol shall be responsible for the maintenance and improvement thereof, including those streets and roadways in said United States Capitol Grounds as shown on said map as being under the jurisdiction and control of the Mayor of the District of Columbia, except that the Mayor of the District of Columbia shall be responsible for the maintenance and improvement of those portions of the following streets which are situated between the curblines thereof: Constitution Avenue from Second Street Northeast to Third Street Northwest, First Street from D Street N.E. to D Street S.E., D Street from First Street S.E. to Canal Street S.W., and First Street from the north side of Louisiana Avenue to the intersection of C Street and Canal Street S.W., Pennsylvania Avenue Northwest from First Street Northwest to Third Street Northwest, Maryland Avenue Southwest from First Street Southwest to Third Street Southwest, Second Street Northeast from F Street Northeast to C Street Southeast; C Street Southeast from Second Street Southeast to First Street Southeast; that portion of Maryland Avenue Northeast from Second Street Northeast to First Street Northeast; that portion of New Jersey Avenue Northwest from D Street Northwest to Louisiana Avenue; that portion of Second Street Southwest from the north curb of D Street to the south curb of Virginia Avenue Southwest; that portion of Virginia Avenue Southwest from the east curb of Second Street Southwest to the west curb of Third Street Southwest; that portion of Third Street Southwest from the south curb of Virginia Avenue Southwest to the north curb of D Street Southwest; that portion of D Street Southwest from the west curb of Third Street Southwest to the east curb of Second Street Southwest; that portion of Canal Street Southwest, including sidewalks and traffic islands, from the south curb of Independence Avenue Southwest to the west curb of South Capitol Street; provided, that the Mayor of the District of Columbia shall be permitted to enter any part of said United States Capitol Grounds for the purpose of repairing or maintaining or, subject to the approval of the Architect of the Capitol, for the purpose of constructing or altering, any utility service of the District of Columbia government.

(July 31, 1946, 60 Stat. 718, ch. 707, § 1; Oct. 20, 1967, 81 Stat. 275, Pub. L. 90-108, § 1(a); Dec. 24, 1973, 87 Stat. 829, Pub. L. 93-198, title VII, § 739(g)(7); Oct. 10, 1980, 94 Stat. 1852, Pub. L. 96-432, § 2.)

**Cross references.** — District planning, powers and duties of mayor, see § 1-204.23.

National Capital Planning Commission, see § 2-1002.

**Section references.** — This section is referenced in § 1-204.23, § 1-207.39, and § 2-1002.

**Prior Codifications.** — 1981 Ed., § 9-106. 1973 Ed., § 9-118.

**Editor's notes.** — Extension of United

States Capitol Grounds: Section 739(g)(3) of the Act of December 24, 1973, 87 Stat. 828, Pub. L. 93-198, provided that § 1 of the Act of July 31, 1946, 60 Stat. 718, as amended, is amended to include within the definition of the United States Capitol Grounds the streets as set forth in the Act of December 24, 1973.

Section 1 of the Act of October 10, 1980, 94 Stat. 1852, Pub. L. 96-432, and the Act of December 22, 1982, 96 Stat. 1935, Pub. L.



97-379, provided that § 1 of the Act of July 31, 1946, 60 Stat. 718, as amended, is amended to include within the definition of the United States Capitol Grounds the areas as set forth in the Act of December 22, 1982.

Law Enforcement Authority of Capitol Police: Title I of Act of October 6, 1992, 106 Stat. 1949, Pub. L. 102-397, provided that "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes" is amended to expand the jurisdiction of the Capitol Police.

Order of House Office Building Commission: By order, dated October 17, 1967, the House Office Building Commission ordered that the Rayburn House Office Building, the subway connecting such building to the Capitol Building, the pedestrian tunnels connecting such building to the Longworth House Office Building, the underground garages in squares 637 and 691 and the tunnels connecting these garages to the House Office Buildings, are declared to be House Office Buildings and, as such, are made subject to the provisions of the Act of July 31, 1946, including any amend-

ments to such Act, which are applicable to the Capitol Buildings.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### CASE NOTES

##### In general.

Capitol Police had jurisdiction to act upon traffic tie-up on boundary street of the Capitol Grounds in which they had jurisdiction and, therefore, had right to arrest defendant if he

committed a misdemeanor in their presence while they were so acting. D.C. Code 1951, §§ 9-118, 9-126, 9-131. *Andersen v. U.S.*, 132 A.2d 155, 1957 D.C. App. LEXIS 239 (Cr.App. 1957).

## § 10-503.12. Public travel in and occupancy of restricted.

Public travel in and occupancy of said United States Capitol Grounds shall be restricted to the roads, walks, and places prepared for that purpose by flagging, paving, or otherwise.

(July 31, 1946, 60 Stat. 718, ch. 707, § 2.)

**Section references.** — This section is referenced in § 10-503.18 and § 10-503.22.

**Prior Codifications.** — 1981 Ed., § 9-108. 1973 Ed., § 9-119.

## § 10-503.13. Obstruction of roads.

It is forbidden to occupy the roads in said United States Capitol Grounds in such manner as to obstruct or hinder their proper use, or to use the roads in the area of said United States Capitol Grounds, south of Constitution Avenue and B Street and north of Independence Avenue and B Street, for the conveyance of goods or merchandise, except to or from the Capitol on government service.

(July 31, 1946, 60 Stat. 718, ch. 707, § 3.)

**Section references.** — This section is referenced in § 10-503.18.

**Prior Codifications.** — 1981 Ed., § 9-109. 1973 Ed., § 9-120.

### § 10-503.14. Sale of goods, advertising, or begging forbidden.

It is forbidden to offer or expose any article for sale in said United States Capitol Grounds; to display any sign, placard, or other form of advertisement therein; to solicit fares, alms, subscriptions, or contributions therein.

(July 31, 1946, 60 Stat. 718, ch. 707, § 4.)

**Section references.** — This section is referenced in § 10-503.18.

**Prior Codifications.** — 1981 Ed., § 9-110.  
1973 Ed., § 9-121.

### § 10-503.15. Removal or injury of property forbidden.

It is forbidden to step or climb upon, remove, or in any way injure any statue, seat, wall, fountain, or other erection or architectural feature, or any tree, shrub, plant, or turf in said United States Capitol Grounds.

(July 31, 1946, 60 Stat. 718, ch. 707, § 5.)

**Section references.** — This section is referenced in § 10-503.18.

**Prior Codifications.** — 1981 Ed., § 9-111.  
1973 Ed., § 9-122.

### § 10-503.16. Unlawful conduct.

(a) It shall be unlawful for any person or group of persons:

(1) Except as authorized by regulations which shall be promulgated by the Capitol Police Board:

(A) To carry on or have readily accessible to the person of any individual upon the United States Capitol Grounds or within any of the Capitol Buildings any firearm, dangerous weapon, explosive, or incendiary device; or

(B) To discharge any firearm or explosive, to use any dangerous weapon, or to ignite any incendiary device, upon the United States Capitol Grounds or within any of the Capitol Buildings; or

(C) To transport by any means upon the United States Capitol Grounds or within any of the Capitol Buildings any explosive or incendiary device; or

(2) Knowingly, with force and violence, to enter or to remain upon the floor of either House of the Congress.

(b) It shall be unlawful for any person or group of persons willfully and knowingly:

(1) To enter or to remain upon the floor of either House of the Congress, to enter or to remain in any cloakroom or lobby adjacent to such floor, or to enter or to remain in the Rayburn Room of the House or the Marble Room of the Senate, unless such person is authorized, pursuant to rules adopted by that House or pursuant to authorization given by that House, to enter or to remain upon such floor or in such cloakroom, lobby, or room;

(2) To enter or to remain in the gallery of either House of the Congress in violation of rules governing admission to such gallery adopted by that House or pursuant to authorization given by that House;

(3) To enter or to remain in any room within any of the Capitol Buildings set aside or designated for the use of either House of the Congress or any

member, committee, subcommittee, officer, or employee of the Congress or either House thereof with intent to disrupt the orderly conduct of official business;

(4) To utter loud, threatening, or abusive language, or to engage in any disorderly or disruptive conduct, at any place upon the United States Capitol Grounds or within any of the Capitol Buildings with intent to impede, disrupt, or disturb the orderly conduct of any session of the Congress or either House thereof, or the orderly conduct within any such building of any hearing before, or any deliberations of, any committee or subcommittee of the Congress or either House thereof;

(5) To obstruct, or to impede passage through or within, the United States Capitol Grounds or any of the Capitol Buildings;

(6) To engage in any act of physical violence upon the United States Capitol Grounds or within any of the Capitol Buildings; or

(7) To parade, demonstrate, or picket within any of the Capitol Buildings.

(c) Nothing contained in this section shall forbid any act of any member of the Congress, or any employee of a member of the Congress, any officer or employee of the Congress or any committee or subcommittee thereof, or any officer or employee of either House of the Congress or any committee or subcommittee thereof, which is performed in the lawful discharge of his official duties.

(July 31, 1946, 60 Stat. 718, ch. 707, § 6; Aug. 6, 1962, 76 Stat. 307, Pub. L. 87-571; Oct. 20, 1967, 81 Stat. 276, Pub. L. 90-108, § 1(b).)

**Section references.** — This section is referenced in § 10-503.18.

**Prior Codifications.** — 1981 Ed., § 9-112. 1973 Ed., § 9-123.

## CASE NOTES

### ANALYSIS

Defenses.

Disorderly conduct.

Due process.

In general.

Instructions.

Procedure generally.

Regulations.

Review.

Validity.

### Defenses.

Capitol police officers were not entitled to qualified immunity from Bivens suit, arising out of their arrest of civil rights claimant distributing leaflets on Capitol grounds, even though arrest was made pursuant to capitol grounds regulation that was not declared unconstitutional until later; officers failed to observe clearly established "tourist standard," under which statutes imposing restrictions on Capitol grounds conduct were not to be enforced when conduct was no more disruptive than that of tourists. *Lederman v. United*

*States*, 131 F.Supp.2d 46, 2001 U.S. Dist. LEXIS 3427 (2001), affirmed in part and reversed in part by, remanded by 291 F.3d 36, 351 U.S. App. D.C. 386, 2002 U.S. App. LEXIS 10271 (2002).

Police officers, sued for allegedly wrongful arrest of claimant distributing leaflets on Capitol grounds, could not assert defense of improper service of process, in response to amended complaint, when they failed to assert it when responding to initial complaint. *Lederman v. United States*, 131 F.Supp.2d 46, 2001 U.S. Dist. LEXIS 3427 (2001), affirmed in part and reversed in part by, remanded by 291 F.3d 36, 351 U.S. App. D.C. 386, 2002 U.S. App. LEXIS 10271 (2002).

Defendant's purported desire to wait for "pause" in House of Representatives debate over appropriations for District of Columbia to make his views on appropriations known from House gallery did not negate defendant's intent to impede, disrupt, or disturb House session; at best, defendant's testimony to that effect presented issue for jury, which jury was entitled to disregard, and House was in session for dura-



tion of defendant's statement. *Armfield v. United States*, 811 A.2d 792, 2002 D.C. App. LEXIS 675 (2002).

Absent suitable explanation, prosecution of all persons charged with particular crime while exercising their constitutional rights, compared with prosecution of small proportion of those persons who are not, gives rise to inference of discrimination purposes in selective prosecution claim. U.S. Const.Amends. 5, 14. *Fedorov v. United States*, 600 A.2d 370, 1991 D.C. App. LEXIS 326 (1991).

Every person charged with unlawful entry was presumed to be "similarly situated" for purposes of selective prosecution claim arising from prosecution's decision to prosecute rather than divert charges against political demonstrators; selection of all persons who participated in demonstration on same night on behalf of homeless at same place was fatally underinclusive. D.C. Code 1981, § 22-3102; U.S. Const.Amends. 5, 14. *Fedorov v. United States*, 600 A.2d 370, 1991 D.C. App. LEXIS 326 (1991).

Discriminatory purpose need only be shown for selective prosecution claim when facially neutral policy is alleged to have discriminatory impact; overtly discriminatory classification is presumptively invalid. U.S. Const.Amends. 5, 14. *Fedorov v. United States*, 600 A.2d 370, 1991 D.C. App. LEXIS 326 (1991).

Strict scrutiny must be applied to overtly discriminatory classification which is challenged in selective prosecution claim, to determine whether government can prove that its policy of disparate treatment is necessary to promote compelling important government interest, unless government shows that such apparent discrimination is not in fact taking place. U.S. Const.Amends. 5, 14. *Fedorov v. United States*, 600 A.2d 370, 1991 D.C. App. LEXIS 326 (1991).

Prosecutor's admission, that he had policy of not sending protest cases to pretrial diversion program, was prima facie showing that government selectively prosecuted political protestors charged with unlawful entry; prosecution concerned exercise of protected First Amendment rights. U.S. Const.Amends. 1, 5, 14; D.C. Code 1981, § 22-3102. *Fedorov v. United States*, 600 A.2d 370, 1991 D.C. App. LEXIS 326 (1991).

Defense of necessity was not available to defendants, who were convicted of disorderly conduct committed in the United States Capitol for shouting and speaking loudly on issue of homelessness in public galleries of the House of Representatives while the House was in session; defendants could have made their views known to Congress in many ways which did not violate law, and their protest could not have had any immediate impact on the crisis of homelessness. D.C. Code 1981, § 9-112(b)(4).

*Reale v. United States*, 573 A.2d 13, 1990 D.C. App. LEXIS 86 (1990).

Defendants failed to make prima facie showing that they were discriminatorily prosecuted for disrupting senate subcommittee. D.C. Code 1981, § 9-112(b)(4). *Smith v. United States*, 460 A.2d 576, 1983 D.C. App. LEXIS 375 (1983).

### Disorderly conduct.

Under "tourist standard," statutes penalizing conduct within Capitol grounds are to be enforced only when conduct is more disruptive or more substantial, in degree or number of persons involved, than that normally engaged in and routinely permitted by tourists and others. *Lederman v. United States*, 131 F.Supp.2d 46, 2001 U.S. Dist. LEXIS 3427 (2001), affirmed in part and reversed in part by, remanded by 291 F.3d 36, 351 U.S. App. D.C. 386, 2002 U.S. App. LEXIS 10271 (2002).

Senate or House Office Buildings are sites where police may enforce, without First Amendment objection the prohibition against parading, demonstrating, or picketing within any of the Capitol Buildings. *Tetaz v. District of Columbia*, 976 A.2d 907, 2009 D.C. App. LEXIS 333 (2009).

Even assuming that Congress violated equal protection clause by denying residents of District of Columbia the right to vote for congressional representatives, defendant was not entitled to reversal of her conviction of obstructing and impeding passage on United States Capitol grounds; there was no relationship between claimed denial of vote and defendant's rights in criminal prosecution. U.S.C. Const.Amend. 5; D.C. Code 1981, § 9-112(b)(5). *Darby v. United States*, 681 A.2d 1156, 1996 D.C. App. LEXIS 168 (1996), writ of certiorari denied by 519 U.S. 1034, 117 S. Ct. 596, 136 L. Ed. 2d 524, 1996 U.S. LEXIS 7581, 65 U.S.L.W. 3415 (1996).

Unfurling large banner in restricted corridor outside Democratic door to House of Representatives could be found to be "demonstration" under statutory ban on parading, demonstrating, or picketing within any Capitol building, even if demonstrators did not disturb business of Congress and were no more disruptive than tourists. D.C. Code 1981, § 9-112(b)(7). *Markowitz v. United States*, 598 A.2d 398, 1991 D.C. App. LEXIS 289 (1991), writ of certiorari denied by 506 U.S. 1035, 113 S. Ct. 818, 121 L. Ed. 2d 689, 1992 U.S. LEXIS 7899, 61 U.S.L.W. 3435 (1992).

"Demonstration" within meaning of statutory ban on parading, demonstrating, or picketing within Capitol building means demonstrating, parading, picketing, speechmaking, or holding vigils, sit-ins, or other activities to demonstrate approval or disapproval of governmental policies or practices, expressing view on public issues, or bringing issue or other matter into public notice. D.C. Code 1981, § 9-112(b)(7).

Markowitz v. United States, 598 A.2d 398, 1991 D.C. App. LEXIS 289 (1991), writ of certiorari denied by 506 U.S. 1035, 113 S. Ct. 818, 121 L. Ed. 2d 689, 1992 U.S. LEXIS 7899, 61 U.S.L.W. 3435 (1992).

Standard that conduct was no more disruptive than normally caused by tourists, visitors, or lobbyists did not apply in prosecution for demonstrating in restricted Capitol corridor closed to public. D.C. Code 1981, § 9-112(b)(7). Markowitz v. United States, 598 A.2d 398, 1991 D.C. App. LEXIS 289 (1991), writ of certiorari denied by 506 U.S. 1035, 113 S. Ct. 818, 121 L. Ed. 2d 689, 1992 U.S. LEXIS 7899, 61 U.S.L.W. 3435 (1992).

As applied to Capitol rotunda, statutory ban on parading, demonstrating, or picketing within Capitol building prescribes only demonstrations that involve conduct more disturbing than actions of tourists would normally be. D.C. Code 1981, § 9-112(b)(7). Markowitz v. United States, 598 A.2d 398, 1991 D.C. App. LEXIS 289 (1991), writ of certiorari denied by 506 U.S. 1035, 113 S. Ct. 818, 121 L. Ed. 2d 689, 1992 U.S. LEXIS 7899, 61 U.S.L.W. 3435 (1992).

"Tourist standard" is not an element of offense of disorderly conduct within the United States Capitol; the standard is means of determining if a statute, as applied in a particular case, is constitutional. D.C. Code 1981, § 9-112(b)(4). Reale v. United States, 573 A.2d 13, 1990 D.C. App. LEXIS 86 (1990).

To convict defendant of remaining in room of United States Capitol Building with intent to disrupt orderly conduct of official business of United States Senate, jury was not required to find that defendant acted with specific intent to violate law with knowledge of existence of statute. D.C. Code 1981, § 9-112(b)(3); U.S. Const. Amend. 1. Marcinski v. United States, 479 A.2d 856, 1984 D.C. App. LEXIS 420 (1984), writ of certiorari denied by 469 U.S. 1224, 105 S. Ct. 1216, 84 L. Ed. 2d 357, 1985 U.S. LEXIS 1067, 53 U.S.L.W. 3598 (1985).

Enforcement of subsection (b)(7) was not meant to be limited to instances wherein individuals engaged in what amounted to disruptive conduct; rather, Congress intended to prohibit a limitless amount of conduct without discriminating between that conduct which was disruptive and that conduct which was peaceful. United States v. Dobkin, 119 WLR 2218 (Super. Ct. 1991).

#### Due process.

Police officers' failure to warn defendants that defendants were violating statute prohibiting disorderly or disruptive conduct in Senate gallery, and failure to provide defendants with opportunity to cease and desist, before officers arrested defendants did not violate due process; statute provided defendants with all the warning to which they were constitutionally enti-

tled. U.S. Const. Amend. 5; D.C. Code 1981, § 9-112(b)(4). Smith-Caronia v. United States, 714 A.2d 764, 1998 D.C. App. LEXIS 119 (1998).

#### In general.

District of Columbia residents did not and could not have any special First Amendment right to petition government that was not equally available to other persons living outside District based on District's residents' lack of direct representation in Congress, and thus, defendant was not entitled to speak his views from gallery of House of Representatives pursuant to statute prohibiting such disruptions in Congress; defendant had several alternative channels of communication in which to make his views known to Congress other than speaking from House or Senate gallery. Armfield v. United States, 811 A.2d 792, 2002 D.C. App. LEXIS 675 (2002).

Assuming arguendo that House of Representatives' gallery was "public" forum, gallery could not be held open for First Amendment expression solely for residents of District of Columbia based on residents' lack of direct representation in Congress; Federal Constitution did not confer any special rights on residents of District that it denied to residents of 50 states, and if gallery was opened for First Amendment expression to all groups or individuals, statute prohibiting disruptions in Congress would have been rendered useless as means of preserving order in House or Senate. Armfield v. United States, 811 A.2d 792, 2002 D.C. App. LEXIS 675 (2002).

Defendant's prosecution in District of Columbia Superior Court for obstructing and impeding passage on United States Capitol grounds was within Congress's power to legislate for District in all cases whatsoever. U.S. Const. Art. 1, § 8, cl. 17; D.C. Code 1981, § 9-112(b)(5). Darby v. United States, 681 A.2d 1156, 1996 D.C. App. LEXIS 168 (1996), writ of certiorari denied by 519 U.S. 1034, 117 S. Ct. 596, 136 L. Ed. 2d 524, 1996 U.S. LEXIS 7581, 65 U.S.L.W. 3415 (1996).

Purpose of federal statute making it unlawful for any person or group of persons wilfully and knowingly to obstruct or impede passage through or within any capitol building is to permit Congress to carry out People's business unhindered by serious disruption. D.C. Code § 9-123(b)(5). Arshack v. United States, 321 A.2d 845, 1974 D.C. App. LEXIS 234 (1974).

Such statutes as federal statute making it unlawful for any person or group of persons wilfully and knowingly to obstruct or impede passage through or within any capitol building may be applied to symbolic conduct, i.e., conduct which, if done at another place, might fall within First Amendment protection. U.S. Const. Amend. 1; D.C. Code § 9-123(b)(5).



Arshack v. United States, 321 A.2d 845, 1974 D.C. App. LEXIS 234 (1974).

In prosecution under statute making it unlawful for any person or group of persons wilfully and knowingly to obstruct or impede passage through or within any capitol building, no discriminatory manner of enforcement was shown. D.C. Code § 9-123(b)(5). Arshack v. United States, 321 A.2d 845, 1974 D.C. App. LEXIS 234 (1974).

Absence of requirement of disruption of, or an interference with, Congressional activities, in subsection (b)(7), as is required under subsections (b)(4) and (5), must be interpreted as an intentional omission by Congress. United States v. Ruth, 116 WLR 917 (Super. Ct. 1988).

The normal purpose and function of the congressional committee hearing rooms, the orderly and formal presentation of testimony in the form of debate and discussion by elected officials and authorized witnesses, necessitates a finding that this arena is a nonpublic forum. United States v. Dobkin, 119 WLR 2218 (Super. Ct. 1991).

#### Instructions.

In prosecution for demonstrating in the United States Capitol Building, in order to ensure that defendant is convicted of the offense as construed to avoid unconstitutional overbreadth, trial court must adequately instruct jury so as to describe accurately the conduct proscribed and for which defendant is on trial. U.S. Const. Amend. 1; D.C. Code 1981, § 9-112(b)(7). Hasty v. United States, 669 A.2d 127, 1995 D.C. App. LEXIS 251 (1995).

In prosecution for demonstrating in the United States Capitol Building, trial court's admonition that defendant's conduct must, "by its very nature, necessarily intrude upon the senses of those within earshot or eyesight" did not adequately convey narrowing construction placed upon the statute, requiring government to prove that defendant's conduct was more disruptive or more substantial than that normally engaged in by tourists. U.S. Const. Amend. 1; D.C. Code 1981, § 9-112(b)(7). Hasty v. United States, 669 A.2d 127, 1995 D.C. App. LEXIS 251 (1995).

Instruction in prosecution for willfully and knowingly uttering loud, threatening or abusive language or engaging in any disorderly or disruptive conduct at any place upon United States capitol grounds was sufficient, even in absence of particularized instruction defendants requested relative to terms "willingly" and "knowingly." D.C. Code 1981, § 9-112(b)(4). Smith v. United States, 460 A.2d 576, 1983 D.C. App. LEXIS 375 (1983).

In prosecution under statute making it unlawful for any person or group of persons wilfully and knowingly to obstruct or impede pas-

sage through or within any capital building, court did not err in refusing to give requested instruction, essence of which was jury nullification and would have made jurors judges of the law as well as facts. U.S. Const. Amend. 1; D.C. Code §§ 9-123(b)(5), 49-301; Const. Md. art. 15, § 5. Arshack v. United States, 321 A.2d 845, 1974 D.C. App. LEXIS 234 (1974).

In prosecution under statute making it unlawful for any person or group of persons wilfully and knowingly to obstruct or impede passage through or within any capital building, trial court properly refused instruction which, in effect, would have excused defendants on ground that they had acted in accordance with dictates of their conscience and if their actions were reasonably believed to be justified by obligations imposed by international law. U.S. Const. Amend. 1; D.C. Code § 9-123(b)(5). Arshack v. United States, 321 A.2d 845, 1974 D.C. App. LEXIS 234 (1974).

In prosecution under federal statute making it unlawful for any person or group of persons wilfully and knowingly to obstruct or impede passage in any capital building, trial court did not err in refusing requested instruction which would require specific intent to cause obstruction or impediment, where court instead gave instruction defining terms "wilful" and "knowingly" and where, under evidence, defendants had been amply warned that they were not to impede passage in corridor and that they were in violation of the law when they sat and lay down and would be arrested if they did not move into area cordoned off for their use. U.S. Const. Amend. 1; D.C. Code § 9-123(b)(5). Arshack v. United States, 321 A.2d 845, 1974 D.C. App. LEXIS 234 (1974).

#### Procedure generally.

Question whether Capitol police had probable cause to arrest claimant, distributing leaflets on sidewalk abutting East stairs of Capitol Building, and were consequently not liable under Federal Tort Claims Act (FTCA), would be determined by application of tourist standard, under which statutes penalizing conduct within Capitol grounds were to be enforced only when conduct was more disruptive or more substantial, in degree or number of persons involved, than that normally engaged in and routinely permitted by tourists and others. Lederman v. United States, 131 F.Supp.2d 46, 2001 U.S. Dist. LEXIS 3427 (2001), affirmed in part and reversed in part by, remanded by 291 F.3d 36, 351 U.S. App. D.C. 386, 2002 U.S. App. LEXIS 10271 (2002).

Evidence supported finding that defendant demonstrated specific intent necessary to support conviction for intentionally disrupting House of Representatives while in session; defendant stood up and spoke loudly with intent, by his own admission, that members of House



hear him, and Speaker of House, after hearing defendant, struck his gavel and asked Sergeant at Arms to restore order in gallery. *Armfield v. United States*, 811 A.2d 792, 2002 D.C. App. LEXIS 675 (2002).

Prosecutor's remark during closing argument referring to repeated misbehavior of his own child as example of behavior with purportedly unintended consequences did not impermissibly refer to defendant's prior arrests for similar conduct, in prosecution for disrupting House of Representatives while in session, where remark, when read in context, was meant to rebut defendant's claim that he did not have specific intent to commit crime, and there was no evidence before jury regarding defendant's prior similar conduct. *Armfield v. United States*, 811 A.2d 792, 2002 D.C. App. LEXIS 675 (2002).

Prosecutor's remark during closing argument referring to repeated misbehavior of his own child as example of behavior with purportedly unintended consequences did not impermissibly encourage jury to "send a message" to defendant or others for purposes of dissuading others from disrupting House of Representatives while in session; while remark did conjure image of disobedient child, it did not link defendant to child for purposes of punishment, nor did remark mischaracterize evidence as it responded to defendant's argument that he did not intend to commit crime. *Armfield v. United States*, 811 A.2d 792, 2002 D.C. App. LEXIS 675 (2002).

Any error in prosecutor's characterization that striking of gavel in House of Representatives after defendant made comments from gallery was proof of disruption of House debate over appropriations for District of Columbia was cured by trial court's instruction to jury that determination of whether "disruption" occurred was matter for jury, and that evidence about use of gavel was for jury to consider when determining if disruption occurred. *Armfield v. United States*, 811 A.2d 792, 2002 D.C. App. LEXIS 675 (2002).

Evidence created jury questions whether demonstrators or police blocked street to Capitol and whether demonstrators violated prohibition against obstructing passage through Capitol grounds. D.C. Code 1981, § 9-112(b)(5). *Farina v. United States*, 622 A.2d 50, 1993 D.C. App. LEXIS 68 (1993).

In absence of prima facie showing of discriminatory prosecution, defendants were not entitled to discovery in support of their motion to dismiss charges against them for disrupting senate subcommittee. D.C. Code 1981, § 9-112(b)(4). *Smith v. United States*, 460 A.2d 576, 1983 D.C. App. LEXIS 375 (1983).

In prosecution of defendant, a member of Vietnam Veterans Against the War and the Revolutionary Communist Party, for disrupting

Congress, the trial court abused its discretion during voir dire by failing either to outline the facts alleged, followed by a specific inquiry as to whether the prospective jurors felt any prejudice toward defendant because of his political views or affiliations, or at least to alert the prospective jurors to the political issues involved and then to inquire, more generally, whether they could be impartial. D.C. Code 1973, §§ 9-123(b)(4), 9-124. *Cordero v. United States*, 456 A.2d 837, 1983 D.C. App. LEXIS 315 (1983).

In prosecution for disrupting Congress, police officer's testimony that he heard the President pro tem., of the Senate pound his gavel and call for order was not hearsay, and the trial court did not err in admitting it, since the President's pounding of the gavel was nonassertive conduct, not a "statement," and the words accompanying his act were not offered to show "the truth of the matters asserted therein," but rather to allow the jury to draw an inference from the facts that the words were spoken. *Cordero v. United States*, 456 A.2d 837, 1983 D.C. App. LEXIS 315 (1983).

### Regulations.

Section of traffic regulation which prohibits any sleeping or lying down on paved or improved portion of buildings and grounds of capitol area in order to insure that the movement of all vehicular and other traffic is allowed to proceed in safe and unimpeded fashion clearly implies legislative and administrative purpose sufficient to support regulation restricted to those instances where acts or conduct interfere with orderly processes of Congress, or with safety of individual legislators, staff members, visitors or tourists, and as so limited, regulation is constitutional. *Abney v. United States*, 451 A.2d 78, 1982 D.C. App. LEXIS 444 (1982).

Where defendant's presence in capitol area did not actually or potentially threaten movement of traffic on capitol grounds, so that enforcement of traffic regulation prohibiting lying or sleeping on improved section of capitol grounds as against defendant violated defendant's First Amendment freedoms, exigencies inherent in enforcement of regulation did not convert defendant's protected mode of expression into proscribed conduct; therefore application of regulation to defendant who was protesting denial of veteran's benefits was unconstitutional. U.S. Const. Amend. 1. *Abney v. United States*, 451 A.2d 78, 1982 D.C. App. LEXIS 444 (1982).

Where defendant's presence on capitol grounds did not actually or potentially threaten movement of traffic on grounds, trial court's finding that application of traffic regulation which prohibited lying or sleeping on grounds to defendant posed greater restriction on defen-

defendant's First Amendment freedom than was necessary was not erroneous on ground that trial court failed to consider alternative means of communication available to defendant to protest denial of veteran's benefits. U.S. Const. Amend. 1. *Abney v. United States*, 451 A.2d 78, 1982 D.C. App. LEXIS 444 (1982).

### Review.

Prosecutor's remark during closing argument asking jury to imagine gallery full of people like defendant did not inject substantial prejudice into prosecution for disrupting House of Representatives so as to warrant reversal; although evidence demonstrated that defendant was alone while in House gallery, government had strong case, and nothing suggested that such remark impermissibly influenced jury toward verdict that it would not otherwise have returned. *Armfield v. United States*, 811 A.2d 792, 2002 D.C. App. LEXIS 675 (2002).

In prosecution for demonstrating in the United States Capitol Building, trial court's failure to instruct jury on "tourist standard" that, in order to convict, the government had burden of proving that defendant's conduct was more disruptive or substantial than that normally engaged in by tourists, was not harmless error, where jury was left without guidance as to nature of expressions which were proscribed by the statute in what was conceded to be a public forum, and, on instruction provided, that defendant's conduct had to "by its very nature, unnecessarily intrude upon the senses of those within earshot or eyesight," jury could have convicted defendant for protected expression. U.S. Const. Amend. 1; D.C. Code 1981, § 9-112(b)(7). *Hasty v. United States*, 669 A.2d 127, 1995 D.C. App. LEXIS 251 (1995).

Although defendant's request for a jury instruction requiring "material and substantial" disruption in order to convict him for demonstrating in the United States Capitol Building did not reflect the "tourist standard" for conviction by court's narrowing construction, defendant's claim of instructional error was adequately preserved, in view of his requested instruction, his earlier reference to case which first articulated tourist standard, the constitutional concerns with the statute and defendant's objection to definition as given. U.S. Const. Amend. 1; D.C. Code 1981, § 9-112(b)(7). *Hasty v. United States*, 669 A.2d 127, 1995 D.C. App. LEXIS 251 (1995).

Immediate discovery was not appropriate on remand of selective prosecution claim arising from prosecutor's refusal to divert political protesters charged with unlawful entry where Government had not had opportunity to respond to demonstrators' prima facie case of improper motivation and in camera discovery of prosecutor's documents may be required. D.C. Code 1981, § 22-3102; Criminal Rule

26.2(c); U.S. Const. Amends. 1, 5, 14. *Fedorov v. United States*, 600 A.2d 370, 1991 D.C. App. LEXIS 326 (1991).

### Validity.

Statute making it unlawful for person to utter loud, threatening, or abusive language or to engage in disorderly or disruptive conduct on capitol grounds or buildings, with intent to impede, disrupt, or disturb legislative session was viewpoint-neutral on its face and imposed reasonable time, place, and manner restrictions on speech consistent with significant government interest it serves, while leaving open ample means of communication not calculated to disrupt orderly conduct of legislature's business, and thus, statute permissibly regulated First Amendment rights to free speech and to petition government. *Armfield v. United States*, 811 A.2d 792, 2002 D.C. App. LEXIS 675 (2002).

Fourteenth Amendment did not apply to the District of Columbia, and thus, defendant, a District resident, could not seek relief on grounds that statute prohibiting disruptions in Congress deprived defendant of equal protection based on defendant's lack of direct representation in Congress. *Armfield v. United States*, 811 A.2d 792, 2002 D.C. App. LEXIS 675 (2002).

Federal Constitution's exclusion of District of Columbia residents from voting for congressional representation was source of defendant's lack of representation in House of Representatives, rather than statute making it unlawful to disrupt Congress, and thus, statute did not deprive defendant of equal protection. *Armfield v. United States*, 811 A.2d 792, 2002 D.C. App. LEXIS 675 (2002).

Statute making it unlawful for person to utter loud, threatening, or abusive language or to engage in disorderly or disruptive conduct on capitol grounds or buildings, with intent to impede, disrupt, or disturb legislative session is viewpoint-neutral on its face and imposes reasonable time, place, and manner restrictions on speech consistent with significant government interest it serves, while leaving open ample means of communication not calculated to disrupt orderly conduct of legislature's business, and thus, statute does not violate First Amendment free speech guarantee. U.S. Const. Amend. 1; D.C. Code 1981, § 9-112(b)(4). *Smith-Caronia v. United States*, 714 A.2d 764, 1998 D.C. App. LEXIS 119 (1998).

Statute making it unlawful for person to utter loud, threatening, or abusive language or to engage in disorderly or disruptive conduct on capitol grounds or buildings, with intent to impede, disrupt, or disturb legislative session was not overbroad in First Amendment terms; defendants' actions in standing, pointing, and chanting "shame" while in Senate gallery during debate on welfare revision legislation fell



undeniably within range of conduct proscribed by statute. U.S. Const.Amend. 1; D.C. Code 1981, § 9-112(b)(4). *Smith-Caronia v. United States*, 714 A.2d 764, 1998 D.C. App. LEXIS 119 (1998).

To avoid being unconstitutionally overbroad and infringing on protected expression, statute proscribing demonstrating in the United States Capitol Building must be construed, under "tourist standard," to proscribe only conduct that is more disruptive or more substantial than that normally engaged in by tourists. U.S.C. Const.Amend. 1; D.C. Code 1981, § 9-112(b)(7). *Hasty v. United States*, 669 A.2d 127, 1995 D.C. App. LEXIS 251 (1995).

Demonstration statute and obstruction statute were constitutionally applied to demonstrators' conduct in Capitol Rotunda, where demonstration activities were clearly more disruptive and more substantial than activities of ordinary tourists; demonstrators formed large group of approximately 113 people, totally blocked pedestrian traffic from using intersection of two central passageways within Rotunda and refused to comply with request to move. D.C. Code 1981, § 9-112(b)(5, 7); U.S.C. Const.Amend. 1. *Berg v. United States*, 631 A.2d 394, 1993 D.C. App. LEXIS 229 (1993).

Unlawful entry statute was constitutionally applied to demonstrators' conduct in Capitol Rotunda; lieutenant, using amplifier, expressly ordered demonstrators to leave after first advising them that they were in violation of building regulation prohibiting sitting or lying down, ordered them to cease and desist, and asked them to stand, which they failed to do, and demonstration statute, obstruction statute or Capitol Police General Order or any combination of them, could have established demonstrators' lack of legal right to remain. D.C. Code 1981, § 9-112(b)(5, 7), 22-3102; U.S. Const.Amend. 1. *Berg v. United States*, 631 A.2d 394, 1993 D.C. App. LEXIS 229 (1993).

Two statutory provisions prohibiting disruptive conduct on United States Capitol grounds and demonstrating within United States Capitol building did not constitute same offense within meaning of double jeopardy clause as each provision required proof of number of facts which other did not; disruptive conduct provision required proof that defendant either uttered loud, threatening, or abusive language, or engaged in disorderly or disruptive conduct, and required intent to disrupt Congressional session, hearing, or deliberation, and demonstration provision required proof that defendant paraded, demonstrated, or picketed, and that prohibited conduct occurred within Capitol building. D.C. Code 1981, § 9-112(b)(4, 7). *Bardoff v. United States*, 628 A.2d 86, 1993 D.C. App. LEXIS 159 (1993).

Statutory prohibition against obstructing passage through Capitol grounds was narrowly

tailored to serve significant governmental interest, left open ample alternative channels of communication, was reasonable time, place, and manner restriction, and, therefore, did not violate First Amendment as applied to demonstrators blocking street for access to Capitol, even if no serious disruption was shown; trial judge required finding of more than minimal interference in order to convict. D.C. Code 1981, § 9-112(b)(4); U.S. Const.Amend. 1. *Farina v. United States*, 622 A.2d 50, 1993 D.C. App. LEXIS 68 (1993).

Trial judge was not required to apply tourist standard in deciding issue whether First Amendment was violated by penalizing demonstrators for obstructing passage through Capitol grounds; trial judge required finding of more than minimal interference, and demonstrators' conduct resulted in complete blockage of vehicular traffic at street for access to Capitol. D.C. Code 1981, § 9-112(b)(4); U.S. Const.Amend. 1. *Farina v. United States*, 622 A.2d 50, 1993 D.C. App. LEXIS 68 (1993).

Statutory ban on parading, demonstrating, or picketing within any Capitol building was content neutral and reasonable and did not violate First Amendment as applied to restricted corridor, nonpublic forum, in Capitol. U.S.C. Const.Amend. 1; D.C. Code 1981, § 9-112(b)(7). *Markowitz v. United States*, 598 A.2d 398, 1991 D.C. App. LEXIS 289 (1991), writ of certiorari denied by 506 U.S. 1035, 113 S. Ct. 818, 121 L. Ed. 2d 689, 1992 U.S. LEXIS 7899, 61 U.S.L.W. 3435 (1992).

Restrictions that Constitution places on State's inhibition of expressive activity in public cannot be assumed to limit equally the power of Congress to protect its deliberations against potential disturbance by forbidding demonstrations in restricted areas of Capitol buildings. U.S. Const.Amend. 1; D.C. Code 1981, § 9-112(b)(7). *Markowitz v. United States*, 598 A.2d 398, 1991 D.C. App. LEXIS 289 (1991), writ of certiorari denied by 506 U.S. 1035, 113 S. Ct. 818, 121 L. Ed. 2d 689, 1992 U.S. LEXIS 7899, 61 U.S.L.W. 3435 (1992).

Constitution permits Congress to protect itself against disturbances by enacting law broader than law imposing sanctions on conduct that actually disturbs work of Congress; Congress may prevent existence of circumstances which rationally can be viewed as creating potential for disturbances and can prevent demonstrations in areas of Capitol in which restrictions have been imposed upon presence of general public. U.S. Const.Amend. 1; D.C. Code 1981, § 9-112(b)(7). *Markowitz v. United States*, 598 A.2d 398, 1991 D.C. App. LEXIS 289 (1991), writ of certiorari denied by 506 U.S. 1035, 113 S. Ct. 818, 121 L. Ed. 2d 689, 1992 U.S. LEXIS 7899, 61 U.S.L.W. 3435 (1992).



Early closing order with respect to Capitol Rotunda was not a reasonable restriction on First Amendment expression of some 50 people who were sitting in the center of the Rotunda praying for change of heart on certain legislation, despite contention that violation of regulations prohibiting sitting, obstructing passageways and demonstrating in the Capitol created a security problem and though the Capitol Police had been advised that the demonstrators intended to be arrested, where no special event had been planned for the Capitol Rotunda that day, there was no evidence the presence of the group disrupted legislating or tourism activities, group was never offered alternative to leaving the center of the Rotunda or notified that they were violating regulations, and the only reason for closing the Rotunda was to arrest the demonstrators. U.S. Const. Amend. 1; D.C. Code 1981, §§ 9-112, 9-112(b)(5, 7), 22-3102; 40 U.S.C. § 193f. *Wheelock v. United States*, 552 A.2d 503, 1988 D.C. App. LEXIS 228 (1988).

As applied to defendant convicted of remaining in room of United States Capitol Building with intent to disrupt orderly conduct of official business of United States Senate, the governing statute was not potentially vague or overbroad in defining conduct which was prohibited. D.C. Code 1981, § 9-112(b)(3); U.S. Const. Amend. 1. *Marcinski v. United States*, 479 A.2d 856, 1984 D.C. App. LEXIS 420 (1984), writ of certiorari denied by 469 U.S. 1224, 105 S. Ct. 1216, 84 L. Ed. 2d 357, 1985 U.S. LEXIS 1067, 53 U.S.L.W. 3598 (1985).

Where defendant's capitol protest was merely continuation of protest which had continued over several years, defendant had been protesting lack of Veterans Administration benefits, defendant spent virtually every night for period of several years on capitol grounds in continuing protest against denial of his benefits, and on night in question defendant had walked around and spoken with several people about his grievance before entering capitol where he was arrested, conduct which defendant was engaged in was within ambit of First Amendment protection. U.S. Const. Amend. 1. *Abney v. United States*, 451 A.2d 78, 1982 D.C. App. LEXIS 444 (1982).

Where police roped off area for group to assemble while their petition was presented to Senate, and group was not arrested immediately upon blocking of corridor but only after chief of capitol police had again requested that they move to area cordoned off for them, their First Amendment rights were not unduly burdened, and application of statute making it unlawful to wilfully and knowingly obstruct or impede passage through or within any capitol building was not violative of their rights under such amendment. U.S. Const. Amend. 1; D.C. Code §§ 9-123, 9-123(a)(2), (b)(4, 5). *Arshack v. United States*, 321 A.2d 845, 1974 D.C. App. LEXIS 234 (1974).

Limitations under subsection (b)(7) are justified in view of the numerous alternatives for exercising one's First Amendment rights in petitioning Congress and is, therefore, not unconstitutional. *United States v. Ruther*, 116 WLR 917 (Super. Ct. 1988).

Subsection (b)(4) succinctly delineates the precise type of conduct (disorderly or disruptive) that is prohibited, hence, because subsection (b)(4) provides adequate and fair warning of the type of conduct that is prohibited, it is not void for vagueness. *United States v. Dobkin*, 119 WLR 2218 (Super. Ct. 1991).

Subsection (b)(4) is a reasonable, nondiscriminatory regulation that promotes Congress' legitimate interest in preserving and maintaining order in its committee hearing rooms. *United States v. Dobkin*, 119 WLR 2218 (Super. Ct. 1991).

The restriction on disruptive activities imposed by subsection (b)(4) is reasonable because no discrimination is imposed on the basis of the speaker's viewpoint. *United States v. Dobkin*, 119 WLR 2218 (Super. Ct. 1991).

The legitimate interest Congress sought to further by enacting subsection (b)(4) was to provide and ensure for the uninterrupted and orderly process of engaging in debates and discussions during decision-making sessions. *United States v. Dobkin*, 119 WLR 2218 (Super. Ct. 1991).

Because a substantial amount of protected activity is unavoidably prohibited by subsection (b)(7), it must be declared unconstitutional. *United States v. Dobkin*, 119 WLR 2218 (Super. Ct. 1991).

## § 10-503.17. Parades, assemblages, and displays forbidden.

It is forbidden to parade, stand, or move in processions or assemblages in said United States Capitol Grounds, or to display therein any flag, banner, or device designed or adapted to bring into public notice any party, organization, or movement, except as hereinafter provided in §§ 10-503.22 and 10-503.23.

(July 31, 1946, 60 Stat. 719, ch. 707, § 7.)

**Section references.** — This section is referenced in § 10-503.18 and § 10-503.23.

**Prior Codifications.** — 1981 Ed., § 9-113. 1973 Ed., § 9-124.

# CASE NOTES

## ANALYSIS

False arrest or imprisonment.

In general.

Jurisdiction.

Procedure generally.

Validity.

Weight and sufficiency of evidence.

## False arrest or imprisonment.

Mere fact that reason why none of the demonstrators heard chief of police's warning to disperse before they were arrested was due to the loudness of the crowd did not excuse the chief of police against whom action for false arrest was brought from making a bona fide effort to insure that the crowd heard his dispersal order before making the arrests. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Where chief of Capitol police understood that the Speaker of the House of Representatives had instructed that demonstrators be allowed to remain on steps of the Capitol while members of Congress were speaking to them unless the crowd became disorderly, in which case the police should ask the persons to leave, law prohibiting assemblages on the grounds without permission of the Speaker of the House of Representatives and the President of the Senate was not being violated, and there were no reasonable grounds for believing that it was, until an order to disperse had been given, and chief could not defend action for false arrest on grounds that he had probable cause to make arrest unless he had given a dispersal order. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Where it was not claimed that attorney had advised chief of police that he could arrest demonstrators on Capitol steps without giving them an order to disperse, and where there was evidence that the chief of police was aware that his orders to disperse had not been heard by the demonstrators, advice of counsel did not provide complete defense to action for false arrest. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

## In general.

Order to quit Capitol grounds must precede arrest made under statute prohibiting assemblages on the grounds without permission of the President of the Senate and the Speaker of the House of Representatives. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Where police officials had, in effect, told demonstrators that they could meet on Capitol steps, no valid arrest for violating statute prohibiting assemblages on the Capitol grounds could have been made until an order to disperse had been given which was itself based on permissible considerations. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Where demonstrators who were meeting on Capitol steps had been given permission by Speaker of the House of Representatives on the condition that permission would be terminated if the group became disorderly and was ordered to leave, and where police had led demonstrators to believe that they could be present on the Capitol steps, the demonstrators could not be constitutionally arrested unless the arresting officers had reason to believe that the demonstrators were disorderly or had a purpose to interfere with lawful visitors to the Capitol, unless orders to disperse had been given and heard, and unless reasonable opportunity had been given to leave. D.C. Code §§ 9-124, 22-3102. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

If demonstrators were arrested while lawfully exercising basic constitutional rights, violation of First Amendment rights was directly attributable to the arresting officers who could be held liable therefor. U.S. Const. Amend. 1. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Matter of rewriting statute forbidding parades or assemblages on the capitol grounds, no matter how peaceful their purpose or orderly their conduct, was function more appropriately to be performed by Congress than by the three-judge court. U.S. Const. Amend. 1; 40 U.S.C. § 193g. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 342 F. Supp. 575, 1972 U.S. Dist. LEXIS 13820 (1972), affirmed by 409 U.S. 972, 93 S. Ct. 311, 34 L. Ed. 2d 236, 1972 U.S. LEXIS 713 (1972).

Action by ad hoc committee and certain members of the committee against chief of capitol police for declaration that statute prohibiting parades or assemblages on capitol grounds was unconstitutional presented genuine controversy rendering appropriate declaratory relief. 40 U.S.C. § 193g. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 342 F. Supp. 575, 1972 U.S. Dist. LEXIS 13820 (1972), affirmed by 409 U.S. 972, 93 S. Ct. 311, 34 L. Ed. 2d 236, 1972 U.S. LEXIS 713 (1972).

Conduct of defendants charged with unlawful entry in refusing to quit steps of United



States capitol after being ordered to do so by chief of capitol police and in reading names of Vietnam war dead in ordinary speaking voice did not come within prohibition of Capitol Grounds statute as interpreted. D.C. Code §§ 9-118 et seq., 9-124, 22-3102; 40 U.S.C. §§ 193a, 193g. *United States v. Nicholson*, 263 A.2d 56, 1970 D.C. App. LEXIS 237 (App. 1970).

The Capitol Grounds statute is applicable only to impose criminal punishment for acts or conduct which interferes with orderly processes of Congress, or with safety of individual legislators, staff members, visitors, or tourists, or their right to be free of intimidation, undue pressure, noise, or inconvenience. 40 U.S.C. § 193g. *United States v. Nicholson*, 263 A.2d 56, 1970 D.C. App. LEXIS 237 (App. 1970).

### **Jurisdiction.**

Under statute forbidding assemblage on the United States Capitol grounds, it is appropriate to bar or to order from the Capitol grounds any group which is noisy, violent, armed, or disorderly in behavior, any group which has a purpose to interfere with the process of Congress, any member of Congress, congressional employee, visitor, or tourist, any group which has the effect, by its presence, of such interference, and any group which damages any part of the building, shrubbery, or plant life; in each category, conduct would have to be more disruptive or more substantial, in degree or number, than that normally engaged in by tourists and others routinely permitted on the grounds. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Statute which prohibited assemblages and parades on United States Capitol grounds though geographically applicable only to District of Columbia was "act of Congress" within statute providing for three-judge district courts in any case where constitutionality of an act of Congress is challenged. 18 U.S.C. § 2282. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 421 F.2d 1090, 1969 U.S. App. LEXIS 11848 (C.A.D.C. 1969).

Whether statute prohibiting assemblages and parades on grounds of the United States Capitol was unconstitutional because it infringed rights of peaceable assembly and petition at the seat of government was substantial constitutional question which was within jurisdiction of three-judge district court. 18 U.S.C. §§ 2282, 2284; 40 U.S.C. § 193g; U.S. Const. Amend. 1. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 421 F.2d 1090, 1969 U.S. App. LEXIS 11848 (C.A.D.C. 1969).

Where declaration that statute prohibiting parades and assemblages on United States Capitol grounds is unconstitutional would have restraining effect comparable to injunctive relief and trial court might deem injunctive order appropriate to accompany its declaration,

three-judge district court would not lose its jurisdiction over case because plaintiffs withdrew request for injunctive relief. 18 U.S.C. §§ 2282, 2284; 40 U.S.C. § 193g; U.S. Const. Amend. 1. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 421 F.2d 1090, 1969 U.S. App. LEXIS 11848 (C.A.D.C. 1969).

Statute prohibiting parades or assemblages on United States capitol grounds and appearing both in the United States Code and the District of Columbia Code was not a purely "local ordinance" and it was not beyond the power of three-judge court to enjoin enforcement of the statute. 18 U.S.C. § 2282; 40 U.S.C. § 193g. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 342 F. Supp. 575, 1972 U.S. Dist. LEXIS 13820 (1972), affirmed by 409 U.S. 972, 93 S. Ct. 311, 34 L. Ed. 2d 236, 1972 U.S. LEXIS 713 (1972).

### **Procedure generally.**

Where it was undisputed that arrestees were arrested without a warrant and that they were imprisoned, unlawfulness of the arrest and imprisonment was presumed and burden was on arresting officer to show that the arrests were privileged. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Since instructions given to jury which was considering Bivens -type claim against police officers who made unlawful arrests of demonstrators did not require the jury to focus on the loss actually sustained by the arrestees and where program of events planned at demonstration was virtually complete before any substantial number of arrests had been made, jury's award of \$7,500 to the arrestees and to congressman who was addressing them at the time of the arrests was excessive. U.S. Const. Amend. 1. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Where court instructed jury that there was no difference between probable cause for arrest and reasonable grounds to believe that probable cause existed for arrest, trial court's use of the two terms interchangeably in instructing on police chief's immunity from action for false arrest if he had reasonable grounds for believing that probable cause existed was not error. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Congressman's complaint that demonstrators he was addressing were unlawfully arrested stated claim for violation of First Amendment rights directly traceable to the arresting officers. U.S. Const. Amend. 1. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Where statute prohibiting parades or assemblages on grounds of United States Capitol as enforced would continue to be bar to assertion of war protesters' rights of free assembly and



petition and rights asserted were of continuing character, ad hoc committee of war protesters' action for declaration that the statute was unconstitutional was not moot because committee had dispersed. 18 U.S.C. §§ 2282, 2284; 40 U.S.C. §§ 193a et seq., 193g, 193k; D.C. Code §§ 9-118 et seq., 9-129; U.S. Const. Amend. 1. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 421 F.2d 1090, 1969 U.S. App. LEXIS 11848 (C.A.D.C. 1969).

Construction of statute appearing both in the United States Code and the District of Columbia Code, by District of Columbia court of general sessions, would have no binding effect on federal courts if government should elect to prosecute violations of the statute in the federal courts, and, particularly in view of government's stated intention to adhere to construction of statute by the District of Columbia court only in the interim between that ruling and ruling on constitutionality of statute by federal court, the District of Columbia court's construction did not moot controversy before the federal court. U.S. Const. Amends. 1, 5; 40 U.S.C. §§ 193a, 193g, 193j, 193k. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 342 F. Supp. 575, 1972 U.S. Dist. LEXIS 13820 (1972), affirmed by 409 U.S. 972, 93 S. Ct. 311, 34 L. Ed. 2d 236, 1972 U.S. LEXIS 713 (1972).

Where plaintiffs challenging constitutionality of statute prohibiting parades or assemblages on United States capitol grounds renewed in posthearing memorandum their original prayer for injunctive relief to accompany declaration of constitutionality of statute, and defendants had represented to court that they proposed to respect a limiting construction of statute by District of Columbia court of general sessions only until ruling by the federal court, court would enter permanent injunction against the enforcement of the statute. 40 U.S.C. § 193g. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 342 F. Supp. 575, 1972 U.S. Dist. LEXIS 13820 (1972), affirmed by 409 U.S. 972, 93 S. Ct. 311, 34 L. Ed. 2d 236, 1972 U.S. LEXIS 713 (1972).

Controversy presented by action by ad hoc committee and certain committee members for declaration that statute prohibiting parades or assemblages on capitol grounds was unconstitutional was not mooted by reason that the committee was no longer in existence and the individual plaintiffs disclaimed any specific and immediate plans for a demonstration. U.S. Const. Amends. 1, 5; 40 U.S.C. §§ 193a, 193g, 193j, 193k. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 342 F. Supp. 575, 1972 U.S. Dist. LEXIS 13820 (1972), affirmed by 409 U.S. 972, 93 S. Ct. 311, 34 L. Ed. 2d 236, 1972 U.S. LEXIS 713 (1972).

In prosecution of defendant, a member of Vietnam Veterans Against the War and the Revolutionary Communist Party, for disrupting

Congress, the trial court abused its discretion during voir dire by failing either to outline the facts alleged, followed by a specific inquiry as to whether the prospective jurors felt any prejudice toward defendant because of his political views or affiliations, or at least to alert the prospective jurors to the political issues involved and then to inquire, more generally, whether they could be impartial. D.C. Code 1973, §§ 9-123(b)(4), 9-124. *Cordero v. United States*, 456 A.2d 837, 1983 D.C. App. LEXIS 315 (1983).

In prosecution for disrupting Congress, police officer's testimony that he heard the President pro tem., of the Senate pound his gavel and call for order was not hearsay, and the trial court did not err in admitting it, since the President's pounding of the gavel was nonassertive conduct, not a "statement," and the words accompanying his act were not offered to show "the truth of the matters asserted therein," but rather to allow the jury to draw an inference from the facts that the words were spoken. *Cordero v. United States*, 456 A.2d 837, 1983 D.C. App. LEXIS 315 (1983).

#### Validity.

Statute forbidding parades, processions, or assemblages on the United States Capitol grounds except with the permission of the President of the Senate and the Speaker of the House of Representatives was unconstitutionally vague as written and administered. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Not all public property may be made immune from the exercise of First Amendment rights. U.S. Const. Amend. 1. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 342 F. Supp. 575, 1972 U.S. Dist. LEXIS 13820 (1972), affirmed by 409 U.S. 972, 93 S. Ct. 311, 34 L. Ed. 2d 236, 1972 U.S. LEXIS 713 (1972).

Governmental interest in maintenance of a "park-like setting" on capitol grounds was not sufficient to sustain statute prohibiting parades or assemblages on the capitol grounds and the statute was void on its face on both First and Fifth Amendment grounds. U.S. Const. Amends. 1, 5; 40 U.S.C. § 193g. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 342 F. Supp. 575, 1972 U.S. Dist. LEXIS 13820 (1972), affirmed by 409 U.S. 972, 93 S. Ct. 311, 34 L. Ed. 2d 236, 1972 U.S. LEXIS 713 (1972).

The rights to free speech and assembly may not be abridged in the guise of regulation, and the state interest which may supersede these rights must rise far above public inconvenience, annoyance, or unrest. U.S. Const. Amend. 1. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 342 F. Supp. 575, 1972 U.S. Dist. LEXIS 13820 (1972), affirmed by 409 U.S. 972, 93 S. Ct. 311, 34 L. Ed. 2d 236, 1972 U.S. LEXIS 713 (1972).

Restrictions on expression are valid if the regulation furthers an important or substantial governmental interest, the governmental interest is unrelated to the suppression of free expression, and the incidental restriction on alleged First Amendment rights is not greater than is essential to the furtherance of that interest. U.S. Const. Amend. 1. *Jeannette Rankin Brigade v. Chief of Capitol Police*, 342 F. Supp. 575, 1972 U.S. Dist. LEXIS 13820 (1972), affirmed by 409 U.S. 972, 93 S. Ct. 311, 34 L. Ed. 2d 236, 1972 U.S. LEXIS 713 (1972).

#### **Weight and sufficiency of evidence.**

Evidence in action for false arrest that demonstrations equally as noisy and unruly as those which gave rise to arrests at issue had been held on Capitol steps with no adverse action being taken by the police, that demonstration in question was fairly mild, that no violation of Capitol grounds statute had occurred, and that defendant chief of Capitol police had stated to one participant of the demonstration that it had been one of the more peaceful crowds sustained determination that it was not reasonable for chief of Capitol police to believe that those arrested constituted a group more disorderly and disruptive than other groups allowed on the Capitol grounds. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Evidence in action for false arrest that chief of Capitol police made attempt to inform the crowd that they should disperse but each time was hooted down and drowned out, that the chief realized that the crowd had not heard his

warnings and yet took no steps to correct the situation, and that no use was made of a powerful police sound truck sustained determination that chief of police had not made a bona fide order to insure that the crowd heard his dispersal order before he arrested them. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Evidence that chief of police who was defendant in action for false arrest of demonstrators had told one of the persons present at the demonstration that the demonstration had been one of the milder demonstrations to take place on the Capitol grounds, that the chief of police was aware that his notice to the crowd to disperse had been inadequate, and that he had not followed his own regulations governing procedures for handling protest groups sustained determination that chief of police was not acting in good faith when he made the arrests. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Evidence that chief of police, when conferring with counsel as to lawfulness of arrest of demonstrators on Capitol grounds for violating statute prohibiting assemblages on Capitol grounds without permission of the Speaker of the House of Representatives and President of the Senate, did not inform counsel of permission given by Speaker of the House sustained determination that chief of police's reliance on advice of counsel was not reasonable and that advice of counsel thus did not provide defense to action for false arrest. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

### **§ 10-503.18. Prosecution and punishment of offenses.**

(a) Any violation of § 10-503.16(a), and any attempt to commit any such violation, shall be a felony punishable by a fine not exceeding \$5,000, or imprisonment not exceeding 5 years, or both.

(b) Any violation of § 10-503.12, § 10-503.13, § 10-503.14, § 10-503.15, § 10-503.16(b), or § 10-503.17, and any attempt to commit any such violation, shall be a misdemeanor punishable by a fine not exceeding \$500, or imprisonment not exceeding 6 months, or both.

(c) Violations of this part, including attempts or conspiracies to commit such violations, shall be prosecuted by the United States Attorney or his assistants in the name of the United States. None of the general laws of the United States and none of the laws of the District of Columbia shall be superseded by any provision of this part. Where the conduct violating this part, also violates the general laws of the United States or the laws of the District of Columbia, both violations may be joined in a single prosecution. Prosecution for any violation of § 10-503.16(a) or for conduct which constitutes a felony under the general laws of the United States or the laws of the District of Columbia shall be in the United States District Court for the District of Columbia. All other prosecu-



tions for violations of this part may be in the Superior Court of the District of Columbia. Whenever any person is convicted of a violation of this part and of the general laws of the United States or the laws of the District of Columbia, in a prosecution under this subsection, the penalty which may be imposed for such violation is the highest penalty authorized by any of the laws for violation of which the defendant is convicted.

(July 31, 1946, 60 Stat. 719, ch. 707, § 8; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; Oct. 20, 1967, 81 Stat. 277, Pub. L. 90-108, § 1(c); July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a).)

**Prior Codifications.** — 1981 Ed., § 9-114. 1973 Ed., § 9-125.

### § 10-503.19. Policing.

The Capitol Police shall police the United States Capitol Buildings and Grounds under the direction of the Capitol Police Board, consisting of the Sergeant at Arms of the United States Senate, the Sergeant at Arms of the House of Representatives, and the Architect of the Capitol, and shall have the power to enforce the provisions of this part, and regulations promulgated under § 10-503.25 and to make arrests within the United States Capitol Buildings and Grounds for any violations of any law of the United States, of the District of Columbia, or of any State, or any regulation promulgated pursuant thereto; provided, that for the fiscal year for which appropriations are made by this Act, the Capitol Police shall have the additional authority to make arrests within the District of Columbia for crimes of violence, as defined in 18 U.S.C. § 16, committed within the Capitol Buildings and Grounds and shall have the additional authority to make arrests, without a warrant, for crimes of violence, as defined in 18 U.S.C. § 16, committed in the presence of any member of the Capitol Police performing official duties; provided further, that the Metropolitan Police force of the District of Columbia are authorized to make arrests within the United States Capitol Buildings and Grounds for any violation of any such laws or regulations, but such authority shall not be construed as authorizing the Metropolitan Police force, except with the consent or upon the request of the Capitol Police Board, to enter such buildings to make arrests in response to complaints or to serve warrants or to patrol the United States Capitol Buildings and Grounds. For the purpose of this section, the word “grounds” shall include the House Office Buildings parking areas and that part or parts of property which have been or hereafter are acquired in the District of Columbia by the Architect of the Capitol, or by an officer of the Senate or the House, by lease, purchase, intergovernment transfer, or otherwise, for the use of the Senate, the House, or the Architect of the Capitol.

(July 31, 1946, 60 Stat. 719, ch. 707, § 9; Dec. 24, 1973, 87 Stat. 829, Pub. L. 93-198, title VII, § 739(g)(4), (5); Nov. 5, 1990, 104 Stat. 2264, Pub. L. 101-520, § 106(a).)

**Prior Codifications.** — 1981 Ed., § 9-115.  
1973 Ed., § 9-126.

**References in text.** — “This Act,” referred

to in the first proviso, is Pub. L. 101-520, 104 Stat. 2264, November 5, 1990.

**Editor’s notes.** — Concurrent jurisdiction



over Office of Technology Assessment: Act of November 14, 1977, 91 Stat. 1362, Pub. L. 95-175, provided that the supervision of the United States Capitol Police shall extend over that part or parts of the premises leased by the

Office of Technology Assessment. In carrying out such supervision, the United States Capitol Police shall have concurrent jurisdiction with that of the Metropolitan Police of the District of Columbia.

### CASE NOTES

#### ANALYSIS

Arrest powers.

In general.

Procedure, generally.

Weight and sufficiency of evidence.

#### Arrest powers.

Evidence that metropolitan police department of District of Columbia is under general duty to enforce laws of the United States within the District, that there is a Capitol police force with special obligation to patrol Capitol grounds, that the Capitol police force is staffed by members of the metropolitan police department, that chief of the metropolitan police had furnished members of the metropolitan police force for purpose of keeping order during demonstrations, and that the Capitol police force was under the direction of United States officials demonstrated that District of Columbia could be held liable for unlawful arrests of demonstrators despite contention that the chief had become, at the time of the arrests, a borrowed servant of the United States. D.C. Code § 9-126. *Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

Fact that civil rights statute does not provide basis for suits against municipalities did not preclude District of Columbia from being held liable, under doctrine of respondeat superior, for any false arrest and denial of civil rights by chief of metropolitan police department as alleged in a Bivens action. 42 U.S.C. § 1983. *Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

Since involvement of chief of metropolitan police in arrest of demonstrators at the United States Capitol was limited to participation in the arrest decision and did not include meeting with United States attorneys at time that decision was made to file informations against the arrestees, chief could not be held liable for malicious prosecution. *Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

More fact that reason why none of the demonstrators heard chief of police's warning to disperse before they were arrested was due to the loudness of the crowd did not excuse the chief of police against whom action for false arrest was brought from making a bona fide effort to insure that the crowd heard his dispersal order before making the arrests. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

Focal point of action for false arrest is the question of whether the arresting officer was justified in ordering the arrest of the plaintiff; if so, the conduct of the arresting officer is privileged and the action fails. *Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

Where chief of Capitol police understood that the Speaker of the House of Representatives had instructed that demonstrators be allowed to remain on steps of the Capitol while members of Congress were speaking to them unless the crowd became disorderly, in which case the police should ask the persons to leave, law prohibiting assemblages on the grounds without permission of the Speaker of the House of Representatives and the President of the Senate was not being violated, and there were no reasonable grounds for believing that it was, until an order to disperse had been given, and chief could not defend action for false arrest on grounds that he had probable cause to make arrest unless he had given a dispersal order. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

If demonstrators were arrested while lawfully exercising basic constitutional rights, violation of First Amendment rights was directly attributable to the arresting officers who could be held liable therefor. U.S. Const. Amend. 1. *Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

Question whether Capitol police had probable cause to arrest claimant, distributing leaf-

lets on sidewalk abutting East stairs of Capitol Building, and were consequently not liable under Federal Tort Claims Act (FTCA), would be determined by application of tourist standard, under which statutes penalizing conduct within Capitol grounds were to be enforced only when conduct was more disruptive or more substantial, in degree or number of persons involved, than that normally engaged in and routinely permitted by tourists and others. *Lederman v. United States*, 131 F.Supp.2d 46, 2001 U.S. Dist. LEXIS 3427 (2001), affirmed in part and reversed in part by, remanded by 291 F.3d 36, 351 U.S. App. D.C. 386, 2002 U.S. App. LEXIS 10271 (2002).

Capitol Police officer had authority, under doctrine of fresh pursuit, to effect investigative stop of automobile outside of Capitol grounds where officer had reason to believe that automobile was stolen, where basis for officer's belief was observation she made while both vehicles were inside Capitol grounds, and where officer initiated stop when both vehicles were still on Capitol grounds. U.S.C. Const.Amend. 5; D.C. Code 1981, § 9-115. In re C.A.P., 633 A.2d 787, 1993 D.C. App. LEXIS 278 (1993).

Capitol Police had jurisdiction to act upon traffic tie-up on boundary street of the Capitol Grounds in which they had jurisdiction and, therefore, had right to arrest defendant if he committed a misdemeanor in their presence while they were so acting. D.C. Code 1951, §§ 9-118, 9-126, 9-131. *Andersen v. U.S.*, 132 A.2d 155, 1957 D.C. App. LEXIS 239 (Cr.App. 1957).

This section, § 9-115.1(c) and *Andersen v. United States*, App. D.C., 132 A.2d 155, aff'd, 253 F.2d 335 (D.C.Cir.1957), cert. denied, 357 U.S. 930, 78 S. Ct. 1375, 2 L. Ed. 2d 1372 (1958) set the parameters for when members of the Capitol Police can legally make arrests in their capacity as members of the force. Otherwise, when making arrests, members of the Capitol Police stand in the same shoes as ordinary civilians and civilian arrests are regulated by § 23-582(b). *United States v. O'Brien*, 116 WLR 2117 (Super. Ct. 1988).

United States Capitol Police were not authorized under this section or § 9-115.1(c) nor under *Andersen v. United States*, App. D.C., 132 A.2d 155, aff'd, 253 F.2d 335 (D.C.Cir.1957), cert. denied, 357 U.S. 930, 78 S. Ct. 1375, 2 L. Ed. 2d 1372 (1958), nor were they authorized as civilians under § 23-582(b), to stop and arrest a defendant for driving while intoxicated under § 40-716 and traffic violations allegedly committed on the grounds of the U.S. Capitol where the defendant was observed and stopped 1 block from the grounds of the U.S. Capitol. *United States v. O'Brien*, 116 WLR 2117 (Super. Ct. 1988).

#### In general.

Under statute forbidding assemblage on the

United States Capitol grounds, it is appropriate to bar or to order from the Capitol grounds any group which is noisy, violent, armed, or disorderly in behavior, any group which has a purpose to interfere with the process of Congress, any member of Congress, congressional employee, visitor, or tourist, any group which has the effect, by its presence, of such interference, and any group which damages any part of the building, shrubbery, or plant life; in each category, conduct would have to be more disruptive or more substantial, in degree or number, than that normally engaged in by tourists and others routinely permitted on the grounds. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Where demonstrators who were meeting on Capitol steps had been given permission by Speaker of the House of Representatives on the condition that permission would be terminated if the group became disorderly and was ordered to leave, and where police had led demonstrators to believe that they could be present on the Capitol steps, the demonstrators could not be constitutionally arrested unless the arresting officers had reason to believe that the demonstrators were disorderly or had a purpose to interfere with lawful visitors to the Capitol, unless orders to disperse had been given and heard, and unless reasonable opportunity had been given to leave. D.C. Code §§ 9-124, 22-3102. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Where police officials had, in effect, told demonstrators that they could meet on Capitol steps, no valid arrest for violating statute prohibiting assemblages on the Capitol grounds could have been made until an order to disperse had been given which was itself based on permissible considerations. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

By surrendering firearms to capitol police, defendant did not comply with statutory requirement that firearm be delivered "to the Chief" and was not immune from weapons prosecution under statute immunizing one whose possession of weapon was solely in order to surrender it to police custody; capitol police were not designated agents of chief of the metropolitan police for purpose of receiving surrendered firearms. D.C. Code 1981, §§ 6-2302(4), 6-2375(a). *Stein v. United States*, 532 A.2d 641, 1987 D.C. App. LEXIS 468 (1987), writ of certiorari denied by 485 U.S. 1010, 108 S. Ct. 1477, 99 L. Ed. 2d 705, 1988 U.S. LEXIS 1712, 56 U.S.L.W. 3718 (1988).

#### Procedure, generally.

Congressman's complaint that demonstrators he was addressing were unlawfully arrested stated claim for violation of First Amendment rights directly traceable to the



arresting officers. U.S. Const. Amend. 1. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Evidence that some demonstrators arrested on Capitol grounds had announced their intention to attempt to enter Capitol building and disrupt the work of Congress was relevant to determination of good faith and reasonableness of actions of chief of the Capitol police in arresting demonstrators, but it was not conclusive on that point in action brought against the chief for false arrest and imprisonment. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Since objective good faith of arresting officers had been put in issue by assertion of affirmative defense of good faith immunity, evidence that chief of police and others guided policemen in making assaults on demonstrators was relevant in action for false arrest and false imprisonment. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Police officers, sued for allegedly wrongful arrest of claimant distributing leaflets on Capitol grounds, could not assert defense of improper service of process, in response to amended complaint, when they failed to assert it when responding to initial complaint. *Lederman v. United States*, 131 F.Supp.2d 46, 2001 U.S. Dist. LEXIS 3427 (2001), affirmed in part and reversed in part by, remanded by 291 F.3d 36, 351 U.S. App. D.C. 386, 2002 U.S. App. LEXIS 10271 (2002).

Capitol police officers were not entitled to qualified immunity from Bivens suit, arising out of their arrest of civil rights claimant distributing leaflets on Capitol grounds, even though arrest was made pursuant to capitol grounds regulation that was not declared unconstitutional until later; officers failed to observe clearly established "tourist standard," under which statutes imposing restrictions on Capitol grounds conduct were not to be enforced when conduct was no more disruptive than that of tourists. *Lederman v. United States*, 131 F.Supp.2d 46, 2001 U.S. Dist. LEXIS 3427 (2001), affirmed in part and reversed in part by, remanded by 291 F.3d 36, 351 U.S. App. D.C. 386, 2002 U.S. App. LEXIS 10271 (2002).

#### **Weight and sufficiency of evidence.**

Evidence that chief of metropolitan police retained operational control over his police at scene of demonstrations on steps of United States Capitol and could have withdrawn them if he thought that arrest of demonstrators was unjustified was sufficient to impose liability on the chief of police for false arrest and violation of First Amendment rights of the demonstrators even though the order to make arrest was given by chief of the capitol police. U.S. Const. Amend. 1. *Dellums v. Powell*, 566 F.2d 216,

1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

Evidence in action for false arrest that demonstrations equally as noisy and unruly as those which gave rise to arrests at issue had been held on Capitol steps with no adverse action being taken by the police, that demonstration in question was fairly mild, that no violation of Capitol grounds statute had occurred, and that defendant chief of Capitol police had stated to one participant of the demonstration that it had been one of the more peaceful crowds sustained determination that it was not reasonable for chief of Capitol police to believe that those arrested constituted a group more disorderly and disruptive than other groups allowed on the Capitol grounds. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

Evidence in action for false arrest that chief of Capitol police made attempt to inform the crowd that they should disperse but each time was hooted down and drowned out, that the chief realized that the crowd had not heard his warnings and yet took no steps to correct the situation, and that no use was made of a powerful police sound truck sustained determination that chief of police had not made a bona fide order to insure that the crowd heard his dispersal order before he arrested them. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

Evidence that chief of police who was defendant in action for false arrest of demonstrators had told one of the persons present at the demonstration that the demonstration had been one of the milder demonstrations to take place on the Capitol grounds, that the chief of police was aware that his notice to the crowd to disperse had been inadequate, and that he had not followed his own regulations governing procedures for handling protest groups sustained determination that chief of police was not acting in good faith when he made the arrests. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

Evidence that chief of police, when conferring with counsel as to lawfulness of arrest of demonstrators on Capitol grounds for violating statute prohibiting assemblages on Capitol grounds without permission of the Speaker of the House of Representatives and President of



the Senate, did not inform counsel of permission given by Speaker of the House sustained determination that chief of police's reliance on advice of counsel was not reasonable and that advice of counsel thus did not provide defense to action for false arrest. D.C. Code § 9-124.

*Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

## § 10-503.20. Protection of Congressional personnel by Capitol Police.

(a) Subject to the direction of the Capitol Police Board, the United States Capitol Police is authorized to protect, in any area of the United States, the person of any member of Congress, officer of the Congress, as defined in 2 U.S.C. § 60-1(b), and any member of the immediate family of any such member or officer, if the Capitol Police Board determines such protection to be necessary.

(b) In carrying out its authority under this section, the Capitol Police Board, or its designee, is authorized, in accordance with regulations issued by the Board pursuant to this section, to detail, on a case-by-case basis, members of the United States Capitol Police to provide such protection as the Board may determine necessary under this section.

(c) In the performance of their protective duties under this section, members of the United States Capitol Police are authorized:

(1) To make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

(2) To utilize equipment and property of the Capitol Police.

(d) Whoever knowingly and willfully obstructs, resists, or interferes with a member of the Capitol Police engaged in the performance of the protective functions authorized by this section shall be fined not more than \$300 or imprisoned not more than 1 year, or both.

(e) Nothing contained in this section shall be construed to imply that the authority, duty, and function conferred on the Capitol Police Board and the United States Capitol Police are in lieu of or intended to supersede any authority, duty, or function imposed on any federal department, agency, bureau, or other entity, or the Metropolitan Police of the District of Columbia, involving the protection of any such member, officer, or family member.

(f) As used in this section, the term "United States" means each of the several states of the United States, the District of Columbia, and territories and possessions of the United States.

(July 31, 1946, ch. 707, § 9A, as added Dec. 29, 1981, 95 Stat. 1723, Pub. L. 97-143, § 1(a).)

**Prior Codifications.** — 1981 Ed., § 9-115.1.

## CASE NOTES

**In general.**

Capitol Police had jurisdiction to act upon traffic tie-up on boundary street of the Capitol Grounds in which they had jurisdiction and, therefore, had right to arrest defendant if he committed a misdemeanor in their presence while they were so acting. D.C. Code 1951, §§ 9-118, 9-126, 9-131. *Andersen v. U.S.*, 132 A.2d 155, 1957 D.C. App. LEXIS 239 (Cr.App. 1957).

Subsection (c) of this section, § 9-115 and *Andersen v. United States*, App. D.C., 132 A.2d 155, aff'd, 253 F.2d 335 (D.C.Cir.1957), cert. denied, 357 U.S. 930, 78 S. Ct. 1375, 2 L. Ed. 2d 1372 (1958) set the parameters for when members of the Capitol Police can legally make arrests in their capacity as members of the force. Otherwise, when making arrests, mem-

bers of the Capitol Police stand in the same shoes as ordinary civilians and civilian arrests are regulated by § 23-582(b). *United States v. O'Brien*, 116 WLR 2117 (Super. Ct. 1988).

United States Capitol Police were not authorized under subsection (c) of this section or § 9-115 nor under *Andersen v. United States*, App. D.C., 132 A.2d 155, aff'd, 253 F.2d 335 (D.C.Cir.1957), cert. denied, 357 U.S. 930, 78 S. Ct. 1375, 2 L. Ed. 2d 1372 (1958), nor were they authorized as civilians under § 23-582(b), to stop and arrest a defendant for driving while intoxicated under § 40-716 and traffic violations allegedly committed on the grounds of the U.S. Capitol where the defendant was observed and stopped 1 block from the grounds of the U.S. Capitol. *United States v. O'Brien*, 116 WLR 2117 (Super. Ct. 1988).

**§ 10-503.21. Employees to assist enforcement authorities.**

It shall be the duty of all persons employed in the service of the government in the Capitol or in the United States Capitol Grounds to prevent, as far as may be in their power, offenses against this part, and to aid the police, by information or otherwise, in securing the arrest and conviction of offenders.

(July 31, 1946, 60 Stat. 719, ch. 707, § 10.)

**Prior Codifications.** — 1981 Ed., § 9-123. 1973 Ed., § 9-127.

**§ 10-503.22. Suspension of prohibitions against use — Authorization generally.**

In order to admit of the due observance within the United States Capitol Grounds of occasions of national interest becoming the cognizance and entertainment of Congress, the President of the Senate and the Speaker of the House of Representatives, acting concurrently, are hereby authorized to suspend for such proper occasions so much of the prohibitions contained in §§ 10-503.12 to 10-503.17 as would prevent the use of the roads and walks of the said grounds by processions or assemblages, and the use upon them of suitable decorations, music, addresses, and ceremonies; provided, that responsible officers shall have been appointed, and arrangements determined which are adequate, in the judgment of said President of the Senate and Speaker of the House of Representatives, for the maintenance of suitable order and decorum in the proceedings, and for guarding the Capitol and its grounds from injury.

(July 31, 1946, 60 Stat. 719, ch. 707, § 11.)

**Section references.** — This section is referenced in § 10-503.17 and § 10-503.23.

**Prior Codifications.** — 1981 Ed., § 9-124. 1973 Ed., § 9-128.

## CASE NOTES

## ANALYSIS

In general.  
Validity.

**In general.**

Where chief of Capitol police understood that the Speaker of the House of Representatives had instructed that demonstrators be allowed to remain on steps of the Capitol while members of Congress were speaking to them unless the crowd became disorderly, in which case the police should ask the persons to leave, law prohibiting assemblages on the grounds without permission of the Speaker of the House of Representatives and the President of the Senate was not being violated, and there were no reasonable grounds for believing that it was, until an order to disperse had been given, and chief could not defend action for false arrest on grounds that he had probable cause to make arrest unless he had given a dispersal order. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Evidence that chief of police, when conferring with counsel as to lawfulness of arrest of demonstrators on Capitol grounds for violating statute prohibiting assemblages on Capitol grounds without permission of the Speaker of the House of Representatives and President of the Senate, did not inform counsel of permission given by Speaker of the House sustained determination that chief of police's reliance on advice of counsel was not reasonable and that advice of counsel thus did not provide defense to action for false arrest. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Order to quit Capitol grounds must precede arrest made under statute prohibiting assem-

blages on the grounds without permission of the President of the Senate and the Speaker of the House of Representatives. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Where police officials had, in effect, told demonstrators that they could meet on Capitol steps, no valid arrest for violating statute prohibiting assemblages on the Capitol grounds could have been made until an order to disperse had been given which was itself based on permissible considerations. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

Where demonstrators who were meeting on Capitol steps had been given permission by Speaker of the House of Representatives on the condition that permission would be terminated if the group became disorderly and was ordered to leave, and where police had led demonstrators to believe that they could be present on the Capitol steps, the demonstrators could not be constitutionally arrested unless the arresting officers had reason to believe that the demonstrators were disorderly or had a purpose to interfere with lawful visitors to the Capitol, unless orders to disperse had been given and heard, and unless reasonable opportunity had been given to leave. D.C. Code §§ 9-124, 22-3102. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

**Validity.**

Statute forbidding parades, processions, or assemblages on the United States Capitol grounds except with the permission of the President of the Senate and the Speaker of the House of Representatives was unconstitutionally vague as written and administered. D.C. Code § 9-124. *Dellums v. Powell*, 566 F.2d 167, 1977 U.S. App. LEXIS 12165 (C.A.D.C. 1977).

## § 10-503.23. Suspension of prohibitions against use — Authorization generally — Authorization of Capitol Police Board.

In the absence from Washington of either of the officers designated in § 10-503.22, the authority therein given to suspend certain prohibitions of this part shall devolve upon the other, and in the absence from Washington of both it shall devolve upon the Capitol Police Board; provided, that notwithstanding the provisions of §§ 10-503.17 and 10-503.22, the Capitol Police Board is hereby authorized to grant the Mayor of the District of Columbia authority to permit the use of Louisiana Avenue for any of the purposes prohibited by said § 10-503.17.

(July 31, 1946, 60 Stat. 719, ch. 707, § 12.)



**Section references.** — This section is referenced in § 10-503.17.

**Prior Codifications.** — 1981 Ed., § 9-125. 1973 Ed., § 9-129.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-503.24. Suspension of prohibitions against use — Concerts.

Nothing in this part shall be construed to prohibit the giving of concerts in the United States Capitol Grounds, at such times as will not interfere with the Congress, by any band in the service of the United States, when and as authorized by the Architect of the Capitol.

(July 31, 1946, 60 Stat. 720, ch. 707, § 13.)

**Prior Codifications.** — 1981 Ed., § 9-126. 1973 Ed., § 9-130.

## § 10-503.25. Suspension of prohibitions against use — Traffic regulations by Capitol Police Board.

(a) The Capitol Police Board, consisting of the Sergeant at Arms of the United States Senate, the Sergeant at Arms of the House of Representatives, and the Architect of the Capitol, shall have exclusive charge and control of the regulation and movement of all vehicular and other traffic, including the parking and impounding of vehicles and limiting the speed thereof, within the United States Capitol Grounds; and said Board is hereby authorized and empowered to make and enforce all necessary regulations therefor and to prescribe penalties for violation of such regulations, such penalties not to exceed a fine of \$300 or imprisonment for not more than 90 days. Notwithstanding the foregoing provisions of this section those provisions of Chapters 14 and 22 of Title 50, for the violation of which specific penalties are provided in said Chapters, shall be applicable to the United States Capitol Grounds. Except as provided in Chapter 23 of Title 50, prosecutions for violation of such regulations shall be in the Superior Court of the District of Columbia, upon information by the Corporation Counsel of the District of Columbia or any of his assistants.

(b) Regulations authorized to be promulgated under this section shall be promulgated by the Capitol Police Board and such regulations may be amended from time to time by the Capitol Police Board whenever it shall deem it necessary; provided, that until such regulations are promulgated and become effective, the traffic regulations of the District of Columbia shall be applicable to the United States Capitol Grounds.

(c) All regulations promulgated under the authority of this section shall, when adopted by the Capitol Police Board, be printed in 1 or more of the daily newspapers published in the District of Columbia, and shall not become effective until the expiration of 10 days after the date of such publication, except that whenever the Capitol Police Board deems it advisable to make effective immediately any regulation relating to parking, diverting of vehicular traffic, or the closing of streets to such traffic, the regulation shall be effective immediately upon placing at the point where it is to be in force conspicuous signs containing a notice of the regulation. Any expenses incurred under this subsection shall be payable from the appropriation "Uniforms and Equipment, Capitol Police."

(d) It shall be the duty of the Mayor of the District of Columbia, or any officer or employee of the government of the District of Columbia designated by said Mayor, upon request of the Capitol Police Board, to cooperate with the Board in the preparation of the regulations authorized to be promulgated under this section, and any future amendments thereof.

(July 31, 1946, 60 Stat. 720, ch. 707, § 14; July 11, 1947, 61 Stat. 308, ch. 221, §§ 1, 2; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); Dec. 24, 1973, 87 Stat. 829, Pub. L. 93-198, title VII, § 739(g)(6); May 15, 1993, D.C. Law 9-272, § 201, 40 DCR 796.)

**Cross references.** — Operation of vehicle in the District, application of law, see §§ 50-2302.01, 50-2303.01.

**Section references.** — This section is referenced in § 10-503.19, § 50-2302.01, and § 50-2303.01.

**Prior Codifications.** — 1981 Ed., § 9-127. 1973 Ed., § 9-131.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CASE NOTES

### In general.

Capitol Police had jurisdiction to act upon traffic tie-up on boundary street of the Capitol Grounds in which they had jurisdiction and, therefore, had right to arrest defendant if he

committed a misdemeanor in their presence while they were so acting. D.C. Code 1951, §§ 9-118, 9-126, 9-131. *Andersen v. U.S.*, 132 A.2d 155, 1957 D.C. App. LEXIS 239 (Cr.App. 1957).

## § 10-503.26. Definitions.

As used in this part:

(1) The term "Capitol Buildings" means the United States Capitol, the Senate and House Office Buildings and garages, the Capitol Power Plant, all

subways and enclosed passages connecting 2 or more of such structures, and the real property underlying and enclosed by any such structure.

(2) The term “firearm” shall have the same meaning as when used in § 901(3) of Title 15, United States Code.

(3) The term “dangerous weapon” includes all articles enumerated in § 22-4514(a) and also any device designed to expel or hurl a projectile capable of causing injury to persons or property, daggers, dirks, stilettos, and knives having blades over 3 inches in length.

(4) The term “explosive” shall have the same meaning as when used in § 121(1) of Title 50, United States Code.

(5) The term “act of physical violence” means any act involving:

(A) An assault or any other infliction or threat of infliction of death or bodily harm upon any individual; or

(B) Damage to or destruction of any real property or personal property.

(July 31, 1946, 60 Stat. 721, ch. 707, § 16(a); Oct. 20, 1967, 81 Stat. 277, Pub. L. 90-108, § 1(d).)

**Cross references.** — District planning, responsibilities of mayor, see § 1-204.23.

National Capital Planning Commission, see § 2-1002.

**Section references.** — This section is referenced in § 1-204.23, § 1-207.39, and § 2-1002.

**Prior Codifications.** — 1981 Ed., § 9-128.  
1973 Ed., § 9-132.

**References in text.** — Section 901(3) of Title 15, United States Code, referred to in paragraph (2) of this section, was repealed by the Act of June 19, 1968, 82 Stat. 234, Pub. L. 90-351, § 906.

Section 121(1) of Title 50, United States Code, referred to in paragraph (4) of this section, was repealed by the Act of October 15, 1970, 84 Stat. 960, Pub. L. 91-452, § 1106(a).

### *Subchapter III. Details and Transfers from MPD to Capitol Police.*

#### PART A.

#### DETAILS.

### **§ 10-505.01. Detail of personnel from Metropolitan Police to Capitol Police Board.**

The Mayor of the District of Columbia is authorized and directed to make such details upon the request of the Board. Personnel so detailed shall, during the period of such detail, serve under the direction and instructions of the Board and are authorized to exercise the same authority as members of such Metropolitan Police and members of the Capitol Police and to perform such other duties as may be assigned by the Board. Reimbursement for salaries and other expenses of such detail personnel shall be made to the government of the District of Columbia, and any sums so reimbursed shall be credited to the appropriation or appropriations from which such salaries and expenses are payable and shall be available for all the purposes thereof; provided, that any person detailed under the authority of this section or under similar authority



in the Legislative Branch Appropriation Act, 1942, and the Second Deficiency Appropriation Act, 1940, from the Metropolitan Police of the District of Columbia shall be deemed a member of such Metropolitan Police during the period or periods of any such detail for all purposes of rank, pay, allowances, privileges, and benefits to the same extent as though such detail had not been made, and at the termination thereof any such person shall have a status with respect to rank, pay, allowances, privileges, and benefits which is not less than the status of such person in such police at the end of such detail.

(July 10, 1972, 86 Stat. 440, Pub. L. 92-342, § 101; Aug. 5, 1977, 91 Stat. 670, Pub. L. 95-94, title I.)

**Prior Codifications.** — 1981 Ed., § 9-116.  
1973 Ed., § 9-126a.

**References in text.** — The Second Deficiency Appropriation Act, 1940 and the Legis-

lative Branch Appropriation Act, 1942, both referred to in the proviso of the last sentence of this section, were enacted by 54 Stat. 629 and 55 Stat. 456, respectively.

### CASE NOTES

#### **In general.**

Evidence that metropolitan police department of District of Columbia is under general duty to enforce laws of the United States within the District, that there is a Capitol police force with special obligation to patrol Capitol grounds, that the Capitol police force is staffed by members of the metropolitan police department, that chief of the metropolitan police had furnished members of the metropolitan police force for purpose of keeping order during demonstrations, and that the Capitol police force was under the direction of United States officials demonstrated that District of Columbia could be held liable for unlawful arrests of demonstrators despite contention that the chief had become, at the time of the arrests, a borrowed servant of the United States. D.C. Code § 9-126. *Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

Evidence that chief of metropolitan police retained operational control over his police at scene of demonstrations on steps of United States Capitol and could have withdrawn them if he thought that arrest of demonstrators was unjustified was sufficient to impose liability on the chief of police for false arrest and violation of First Amendment rights of the demonstrators even though the order to make arrest was

given by chief of the capitol police. U.S. Const. Amend. 1. *Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

Since involvement of chief of metropolitan police in arrest of demonstrators at the United States Capitol was limited to participation in the arrest decision and did not include meeting with United States attorneys at time that decision was made to file informations against the arrestees, chief could not be held liable for malicious prosecution. *Dellums v. Powell*, 566 F.2d 216, 1977 U.S. App. LEXIS 12164 (C.A.D.C. 1977), writ of certiorari denied by 438 U.S. 916, 98 S. Ct. 3146, 98 S. Ct. 3147, 57 L. Ed. 2d 1161, 1978 U.S. LEXIS 2450 (1978).

By surrendering firearms to capitol police, defendant did not comply with statutory requirement that firearm be delivered "to the Chief" and was not immune from weapons prosecution under statute immunizing one whose possession of weapon was solely in order to surrender it to police custody; capitol police were not designated agents of chief of the metropolitan police for purpose of receiving surrendered firearms. D.C. Code 1981, §§ 6-2302(4), 6-2375(a). *Stein v. United States*, 532 A.2d 641, 1987 D.C. App. LEXIS 468 (1987), writ of certiorari denied by 485 U.S. 1010, 108 S. Ct. 1477, 99 L. Ed. 2d 705, 1988 U.S. LEXIS 1712, 56 U.S.L.W. 3718 (1988).

## PART B.

## TRANSFERS.

**§ 10-505.02. Transfer of member of Metropolitan Police to Capitol Police — Election.**

(a) Any member of the Metropolitan Police force detailed to the Capitol Police (other than the Capitol Police Chief):

(1) Who on August 31, 1980, has completed 20 years or more of police service shall be reassigned to the Metropolitan Police force effective October 1, 1980, unless during the 30-day period beginning on September 1, 1980, such member makes an election under subsection (b) of this section; or

(2) Who after August 31, 1980, completes 20 years of police service shall be reassigned to the Metropolitan Police force effective at the end of the 30-day period beginning on the date of such completion, unless, during such period, such member makes an election under subsection (b) of this section.

(b)(1) A member of the Metropolitan Police force described in subsection (a) of this section may elect to transfer to the Capitol Police with the rank, pay, and seniority that are most nearly equivalent to the rank, pay, and seniority of such member on the day before the date of such transfer, as determined by the Capitol Police Board.

(2) A transfer to the Capitol Police under this subsection shall be effective on the date on which the electing member would have been reassigned to the Metropolitan Police force but for the election by such member under paragraph (1) of this subsection.

(3) An election under paragraph (1) of this subsection shall be made in writing to the Chairman of the Capitol Police Board in such form and manner as may be prescribed by the Board.

(c) In each case in which a member of the Metropolitan Police force transfers to the Capitol Police under subsection (b) of this section, the position occupied by such member immediately before the effective date of such transfer shall, beginning on such date, be a position on the rolls of the Capitol Police for the purpose of providing for the assimilation of such member.

(Dec. 20, 1979, 93 Stat. 1099, Pub. L. 96-152, § 2.)

**Section references.** — This section is referenced in § 10-505.03.

**Prior Codifications.** — 1981 Ed., § 9-117.

**§ 10-505.03. Transfer of member of Metropolitan Police to Capitol Police — Creditable service as congressional employee.**

(a) Any police service: (1) of the Capitol Police Chief shall be treated, effective on the effective date of this part; and (2) of a member of the Metropolitan Police force transferred to the Capitol Police under § 10-505.02(b) shall be treated, effective on the effective date of such transfer; as

creditable service as a Congressional employee for purposes of determining eligibility for, and the amount of, an annuity under subchapter III of Chapter 83 of Title 5, United States Code.

(b) Effective on the date on which police service is first treated as creditable service as a Congressional employee under subsection (a) of this section, the individual or member involved shall forfeit all annuity rights under the Policemen and Firemen's Retirement and Disability Act (§ 5-701 et seq.).

(Dec. 20, 1979, 93 Stat. 1099, Pub. L. 96-152, § 3.)

**Section references.** — This section is referenced in § 10-505.04.

**Prior Codifications.** — 1981 Ed., § 9-118.

#### **§ 10-505.04. Transfer of member of Metropolitan Police to Capitol Police — Payments into Retirement and Disability Fund.**

(a) An amount equal to the total amount of: (1) deductions and withholdings from pay for retirement under the Policemen and Firemen's Retirement and Disability Act (§ 5-701 et seq.) for police service treated as creditable service as a congressional employee under § 10-505.03; and (2) sums paid by the Congress to the District of Columbia as a retirement contribution for any such police service performed while detailed to the Capitol Police; shall be paid by the Mayor of the District of Columbia into the Treasury of the credit of the Civil Service Retirement and Disability Fund. For purposes of § 8334(c) of Title 5, United States Code, such payment shall constitute the required deposit for police service treated as creditable service as a congressional employee under § 10-505.03.

(b) Payments into the Treasury required by subsection (a) of this section shall be made not later than the date on which police service is first treated as creditable service as a congressional employee under § 10-505.03 with respect to the individual or member involved.

(Dec. 20, 1979, 93 Stat. 1099, Pub. L. 96-152, § 4.)

**Prior Codifications.** — 1981 Ed., § 9-119.

#### **§ 10-505.05. Transfer of member of Metropolitan Police to Capitol Police — Definitions.**

As used in this part:

(1) The term "Metropolitan Police force" means the Metropolitan Police force of the District of Columbia.

(2) The term "police service" means creditable service under § 5-704.

(Dec. 20, 1979, 93 Stat. 1099, Pub. L. 96-152, § 5.)

**Prior Codifications.** — 1981 Ed., § 9-120.



## § 10-505.06. Transfer of member of Metropolitan Police to Capitol Police — Appropriations.

Until otherwise provided by law, the contingent fund of the House of Representatives shall be available to carry out this part.

(Dec. 20, 1979, 93 Stat. 1099, Pub. L. 96-152, § 6.)

**Prior Codifications.** — 1981 Ed., § 9-121.

## § 10-505.07. Transfer of member of Metropolitan Police to Capitol Police — Effective date.

This part shall take effect on the 1st day of the 2nd month after the month in which this part is enacted.

(Dec. 20, 1979, 93 Stat. 1099, Pub. L. 96-152, § 7.)

**Prior Codifications.** — 1981 Ed., § 9-122.

### *Subchapter IV. Control of District Buildings.*

## § 10-507.01. Control of District of Columbia buildings.

All buildings belonging to the District of Columbia shall be under the jurisdiction and control of the Mayor of the District of Columbia.

(June 29, 1937, 50 Stat. 377, ch. 403, § 1.)

**Prior Codifications.** — 1981 Ed., § 9-129.  
1973 Ed., § 9-133.

**Temporary Addition of Section.** — Section 2 of D.C. Law 18-73 added a section to read as follows: “Sec. 2. The University of the District of Columbia shall have exclusive use of the Bertie Backus Middle School building and site in Lot 802, Square 3757, located at 5171 South Dakota Avenue, N.E., in Ward 5, to expand upon its collegiate mission.”

Section 4(b) of D.C. Law 18-73 provided that the act shall expire after 225 days of its having taken effect.

Section 1502 of D.C. Law 18-222 added a section to read as follows: “Sec. 1502. The University of the District of Columbia shall have exclusive use of the closed Patricia R. Harris Educational Center School building and site located at 4600 Livingston Road, S.E., in Ward 8, to expand upon its collegiate mission and Workforce Development and Lifelong Learning Program by continuing to provide Vocational Education and Community College of the District of Columbia courses.”

Section 2002(b) of D.C. Law 18-222 provided that the act shall expire after 225 days of its having taken effect.

Section 3(b) of D.C. Law 18-283 added sections to read as follows:

“SUBTITLE R. UNIVERSITY OF THE DISTRICT OF COLUMBIA EXPANSION.

“Sec. 1171. Short title.

“This subtitle may be cited as the ‘University of the District of Columbia Expansion Act of 2010’.

“Sec. 1172. The University of the District of Columbia shall have exclusive use of the closed Patricia R. Harris Educational Center School building and site located at 4600 Livingston Road, S.E., in Ward 8, to expand upon its collegiate mission and Workforce Development and Lifelong Learning Program by continuing to provide Vocational Education and Community College of the District of Columbia courses.

“SUBTITLE S. DCPL AUTHORITY.

“Sec. 1181. Short title.

“This subtitle may be cited as the ‘African-American Civil War Museum Clarification Act of 2010’.

“Sec. 1182. The District of Columbia Public Library is authorized to issue grants and execute contracts pursuant to its authority granted in the Reserve for African-American Civil War Records Act of 2009, effective March 3, 2010 (D.C. Law 18-111; 57 DCR 181).”

Section 6(b) of D.C. Law 18-283 provides that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2 of University of the District of Columbia Expansion Emergency Act of 2009 (D.C. Act 18-144, July 18, 2009, 56 DCR 5877).

For temporary (90 day) addition, see § 3021 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 4091 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 3021 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) addition, see § 4091 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) addition of section, see § 1502 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) addition of section, see § 1502 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

For temporary (90 day) additions, see § 3(b) of Budget Support Act Clarification and Technical Amendment Emergency Amendment Act of 2010 (D.C. Act 18-543, October 5, 2010, 57 DCR 9630).

For temporary (90 day) addition of section, see § 422 of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

**Short title.** — Short title: Section 3020 of D.C. Law 18-111 provided that subtitle C of title III of the act may be cited as the “FEMS and DOC Headquarters Act of 2009”.

Short title: Section 4090 of D.C. Law 18-111 provided that subtitle J of title IV of the act may be cited as the “University of the District of Columbia Expansion Act of 2009”.

Short title: Section 421 of D.C. Law 18-370 provided that subtitle C of title IV of the act may be cited as “University of the District of Columbia Expansion Act of 2010”.

**Editor’s notes.** — Section 3021 of D.C. Law 18-111 provided:

“Sec. 3021. Relocation of headquarters for Fire and Emergency Medical Services Department and Department of Corrections.

“(a) The headquarters of the Fire and Emergency Medical Services Department and the headquarters of the Department of Corrections shall not be relocated to or housed in the

Patricia R. Harris Education Center and no funds shall be expended for those purposes.

“(b) The Mayor shall develop a plan for the permanent relocation of the headquarters for the Fire and Emergency Medical Services Department and the Department of Corrections that shall:

“(1) Be submitted to the Council no later than March 1, 2010;

“(2) Be included in the Mayor’s fiscal year 2011 budget and financial plan submission to the Council;

“(3) Include the proposed location for a headquarters for each agency or the location of a headquarters for both agencies;

“(4) Include the time line for relocating the headquarters;

“(5) Include the total costs for relocating the headquarters; and

“(6) Identify funding for relocating the headquarters.”

Section 4091 of D.C. Law 18-111 provided: “The University of the District of Columbia shall have exclusive use of the closed Bertie Backus Middle School building and site located at 5171 South Dakota Avenue, N.E., in Ward 5, to expand upon its collegiate mission.”

Section 422 of D.C. Law 18-370 provided: “Sec. 422. The University of the District of Columbia shall have exclusive use of the closed Patricia R. Harris Educational Center School building and site located at 4600 Livingston Road, S.E., in Ward 8, to expand upon its collegiate mission and Workforce Development and Lifelong Learning Program by continuing to provide Vocational Education and Community College of the District of Columbia courses.”

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.



*Subchapter V. Protection of Property Outside of District.***§ 10-509.01. Designation of District employees to protect life and property outside the District; powers of arrest; weapons and uniforms.**

(a) The Mayor of the District of Columbia may designate any employee of the District to protect life and property in and on the buildings and grounds of any institution upon land outside the District acquired by the United States for the District of Columbia for the establishment or operation thereon of any sanatorium, hospital, training school, correctional institution, reformatory, workhouse, or jail; provided, that such employee shall be bonded for the faithful discharge of such duties, and the Council of the District of Columbia shall fix the penalty of any such bond. Whenever any employee is so designated he is hereby authorized and empowered:

(1) To arrest under a warrant within the buildings and grounds of any such institution any person accused of having committed within any such buildings or grounds any offense against the laws of the United States, or against any rule or regulation prescribed pursuant to this subchapter;

(2) To arrest without a warrant any person committing any such offense within such buildings or grounds, in his presence; or

(3) To arrest without warrant within such buildings or grounds, any person whom he has reasonable grounds to believe has committed a felony in such buildings or grounds.

(b) Any individual having the power to arrest as provided in subsection (a) of this section may carry firearms or other weapons and shall wear such uniform with such identification badge as the Mayor may direct or the Council by regulation may prescribe.

(July 3, 1956, 70 Stat. 488, ch. 508, § 1.)

**Section references.** — This section is referenced in § 10-509.01a, § 10-509.04, and § 10-509.05.

**Prior Codifications.** — 1981 Ed., § 9-130. 1973 Ed., § 9-134.

**Editor's notes.** — Restriction on use of funds: Section 133 of Pub. L. 102-382, the District of Columbia Appropriations Act, 1993, provided that none of the funds made available in this Act may be used by the District of Columbia to operate, after June 1, 1993, the juvenile detention facility known as the Cedar Knoll Facility, and the Mayor shall transmit a plan and timetable for closing the Cedar Knoll Facility to the Committees on Appropriations of the House of Representatives and the Senate by January 15, 1993.

Authority to Director of Department of Administrative Services delegated: See Mayor's Order 85-4, January 17, 1985.

**Change in Government.** — This section originated at a time when local government

powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402 (188, 189) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.



### § 10-509.01a. Escape from juvenile facilities.

No child who has been committed to a juvenile facility shall escape or attempt to escape from a District of Columbia institution described in § 10-509.01. No person shall aid or abet any person to violate this section.

(July 3, 1956, ch. 508, § 1a, as added May 15, 1993, D.C. Law 9-272, § 106, 40 DCR 796; May 16, 1995, D.C. Law 10-255, § 13, 41 DCR 5193.)

**Prior Codifications.** — 1981 Ed., § 9-130.1.

**Legislative history of Law 9-272.** — Law 9-272, the “Criminal and Juvenile Justice Reform Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-374, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on January 14, 1993, it was assigned Act No. 9-401 and transmitted to both Houses of Congress for its review. D.C. Law 9-272 became effective on May 15, 1993.

**Legislative history of Law 10-255.** — Law 10-255, the “Technical Amendments Act of 1994,” was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

### § 10-509.02. Council authorized to make rules and regulations.

The Council of the District of Columbia may make and amend such rules and regulations as it deems necessary for the protection of life and property in or on the buildings and grounds of any such institution.

(July 3, 1956, 70 Stat. 488, ch. 508, § 2.)

**Prior Codifications.** — 1981 Ed., § 9-131. 1973 Ed., § 9-135.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402 (190) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-509.03. Penalty for violation of rules and regulations.

Any person who knowingly and willfully violates any rule or regulation prescribed under this subchapter shall be guilty of a misdemeanor, and shall be fined not more than \$500 or imprisoned not more than 6 months or both.

(July 3, 1956, 70 Stat. 488, ch. 508, § 3.)

**Prior Codifications.** — 1981 Ed., § 9-132. 1973 Ed., § 9-136.

#### § 10-509.04. Acceptance of collateral for appearance before United States Magistrate; deposit of collateral.

The officer on duty in command of those employees designated by the Mayor of the District of Columbia as provided in § 10-509.01 may accept deposit of collateral from any person charged with the violation of any rule or regulation prescribed under this subchapter, for appearance in court or before the appropriate United States Magistrate; and such collateral shall be deposited with the United States Magistrate sitting in the district where the offense has been committed.

(July 3, 1956, 70 Stat. 488, ch. 508, § 4.)

**Prior Codifications.** — 1981 Ed., § 9-133.  
1973 Ed., § 9-137.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### § 10-509.05. Reciprocal agreements with states.

The Mayor of the District of Columbia may enter into agreements with any of the states, or any political subdivision thereof, where any such institution mentioned in § 10-509.01 is located, for such governmental services as the Mayor shall deem necessary to the efficient and proper government of such institution, and they may, from time to time, agree to modifications in any such agreement; provided, that where the charge for any such service is established by the laws of the state within whose territorial limits such institution is situated, the Mayor may not pay for such service an amount in excess of the charge so established. There is hereby authorized to be appropriated such sums as may be necessary for the making of payment for services under any such agreement.

(July 3, 1956, 70 Stat. 488, ch. 508, § 5.)

**Prior Codifications.** — 1981 Ed., § 9-134.  
1973 Ed., § 9-138.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to

§ 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

*Subchapter VI. Capitol Grounds and Botanic Garden Tunnel.*

**§ 10-511.01. Tunnel under Capitol Grounds and Botanic Garden grounds — Required.**

The Mayor of the District of Columbia is authorized and directed, in constructing, maintaining, and operating a vehicular tunnel in the City of Washington, District of Columbia, extending from the vicinity of 2nd and C Streets Southwest, to the vicinity of 3rd and Constitution Avenue Northwest, as a part of the Innerloop Freeway System, to locate a portion of such tunnel under square W-576, which is a part of the United States Botanic Garden grounds, and reservation 12, which is a part of the United States Capitol Grounds.

(July 21, 1964, 78 Stat. 333, Pub. L. 88-381, § 1.)

**Prior Codifications.** — 1981 Ed., § 9-135. 1973 Ed., § 9-139.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

**§ 10-511.02. Tunnel under Capitol Grounds and Botanic Garden grounds — Construction.**

Subject to the approval of the Architect of the Capitol and to such conditions as he may prescribe, the Mayor of the District of Columbia is authorized to make such use of square W-576 and reservations 12 and 6B as may be necessary for the construction of the tunnel, including borings and other preliminary work and storing of materials, and the reconstruction of that section of the Tiber Creek sewer located under square W-576 and reservation 6B.

(July 21, 1964, 78 Stat. 334, Pub. L. 88-381, § 2.)

**Prior Codifications.** — 1981 Ed., § 9-136. 1973 Ed., § 9-140.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmen-

tal Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished



the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia,

respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

**§ 10-511.03. Tunnel under Capitol Grounds and Botanic Garden grounds — Right, title and interest to remain in the United States; jurisdiction and responsibility of Mayor.**

Except as provided in § 10-511.06, nothing in this subchapter shall be construed to grant to the Mayor of the District of Columbia any right, title, or interest in or to any real property of the United States, and reservation 12 shall in its entirety continue to be a part of the United States Capitol Grounds, and square W-576 shall in its entirety continue to be a part of the United States Botanic Garden grounds. The Mayor shall have jurisdiction and control of, and sole responsibility for the operation and maintenance of, those portions of the tunnel beneath square W-576 and reservation 12.

(July 21, 1964, 78 Stat. 334, Pub. L. 88-381, § 3.)

**Prior Codifications.** — 1981 Ed., § 9-137. 1973 Ed., § 9-141.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

**§ 10-511.04. Tunnel under Capitol Grounds and Botanic Garden grounds — Restoration of grounds to original condition.**

All areas of square W-576 and reservations 12 and 6B disturbed by reason of operations under this subchapter shall, except as otherwise provided in this subchapter, be restored to their original condition to the satisfaction of the Architect of the Capitol.

(July 21, 1964, 78 Stat. 334, Pub. L. 88-381, § 4.)

**Prior Codifications.** — 1981 Ed., § 9-138. 1973 Ed., § 9-142.

**§ 10-511.05. Tunnel under Capitol Grounds and Botanic Garden grounds — United States not to incur expense or liability.**

Except as provided in § 10-511.06, the United States shall not incur any expense or liability whatsoever under or by reason of this subchapter, or be liable under any claim of any nature or kind that may arise from the construction, or the operation or maintenance, of that portion of the tunnel authorized by this subchapter.

(July 21, 1964, 78 Stat. 334, Pub. L. 88-381, § 5.)

**Prior Codifications.** — 1981 Ed., § 9-139. 1973 Ed., § 9-143.

**§ 10-511.06. Conveyance of real property for Innerloop Freeway System.**

The Architect of the Capitol is authorized to convey to the Mayor of the District of Columbia, for purposes of constructing the Innerloop Freeway System, all, or so much as he determines necessary, of the right, title, and interest of the United States in and to reservations 6B, 6C, 6D, 6E, 6F, and 286 in the District of Columbia. Any real property conveyed under this section shall thereafter be under the sole jurisdiction and control of the Mayor of the District of Columbia.

(July 21, 1964, 78 Stat. 334, Pub. L. 88-381, § 6.)

**Section references.** — This section is referenced in § 10-511.03 and § 10-511.05.

**Prior Codifications.** — 1981 Ed., § 9-140. 1973 Ed., § 9-144.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

**§ 10-511.07. Area authorized for construction of vehicular tunnel; conditions.**

Notwithstanding the joint resolution entitled “Joint resolution providing for the construction and maintenance of a National Gallery of Art”, approved March 24, 1937 (50 Stat. 51; 20 U.S.C. § 71), the Mayor of the District of Columbia is authorized to use the east 65 feet of the area bounded by 4th Street, Pennsylvania Avenue, 3rd Street, and North Mall Drive Northwest, in the District of Columbia for the construction and maintenance of a vehicular tunnel, on condition that after such construction is completed:

- (1) The surface thereof is maintained at its original grade;

(2) No portion of the tunnel, including ventilating equipment and utilities, is nearer the surface than 8 feet; and

(3) The surface ingress and egress to such property is not limited.

(July 21, 1964, 78 Stat. 334, Pub. L. 88-381, § 7.)

**Prior Codifications.** — 1981 Ed., § 9-141. 1973 Ed., § 9-145.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### *Subchapter VII. Federal Activities Affecting District Property.*

## **§ 10-513.01. Prior notice for federal activities affecting district property.**

Repealed.

(Aug. 5, 1997, 111 Stat. 784, Pub. L. 105-33, § 11715; Nov. 19, 1997, 111 Stat. 2186, Pub. L. 105-100, § 157(f).)

**Prior Codifications.** — 1981 Ed., § 9-1001.

**Editor's notes.** — Pub. L. 105-33, title XI, § 11715, Aug. 5, 1997, 111 Stat. 784, added this section.

Pub. L. 105-100, title I, § 157(f), Nov. 19, 1997, 111 Stat. 2186, provided:

“(f) Repeal of prior notice requirement for Federal activities affecting real property in District of Columbia. Effective October 1, 1997, the Balanced Budget Act of 1997 (Public Law 105-33) is amended by striking section 11715.”



CHAPTER 5A. DEPARTMENT OF GENERAL SERVICES.

Sec.	Sec.
10-551.01. Department of General Services; establishment.	10-551.07. Representative program.
10-551.02. Organization.	10-551.07a. Establishment of the Facilities Service Request Fund.
10-551.03. Director; appointment.	10-551.08. Rules.
10-551.04. Transfers.	10-551.09. Transition.
10-551.05. Inventory of real property assets.	10-551.10. See Forever Foundation — Evans Campus.
10-551.06. Green building priority.	

§ 10-551.01. Department of General Services; establishment.

(a) There is established, as a subordinate agency within the executive branch of the District government, the Department of General Services (“Department”), which shall be headed by a Director who shall carry out the functions and authorities assigned to the Department.

(b) The functions of the Department shall be to:

(1) Manage the capital improvement and construction program for District government facilities, including the modernization or new construction of District facilities by approving and authorizing decisions at every stage of modernization and new construction, including planning, design, procurement, and construction, in accordance with the approved Capital Improvement Plan;

(2) Acquire real property, by purchase or lease, for use by the District government;

(3) Manage space in buildings and adjacent areas operated and leased by the District government, assist District agencies in implementing space plans, and administer the employee parking program;

(4) Provide building services for facilities owned and occupied by the District government, including engineering services, custodial services, security services, energy conservation, utilities management, maintenance, inspection and planning, and repairs and non-structural improvements;

(5) Administer the disposition of District real and personal property through sale, lease, or other authorized method, and to exercise other acquisition and property disposition authority delegated by the Mayor; and

(6) Manage data and information needs pertaining to real property, including maintaining inventory records for tracking and controlling District-owned, controlled, and leased space.

(Sept. 14, 2011, D.C. Law 19-21, § 1022, 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) addition, see § 1002 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 19-21.** — Law 19-21, the “Fiscal Year 2012 Budget Support Act of 2011”, was introduced in Council and assigned Bill No. 19-203, which was referred to

the Committee of the Whole. The Bill was adopted on first and second readings on May 25, 2011, and June 14, 2011, respectively. Signed by the Mayor on July 22, 2011, it was assigned Act No. 19-98 and transmitted to both Houses of Congress for its review. D.C. Law 19-21 became effective on September 14, 2011.

**Short title.** — Short title: Section 1021 of

D.C. Law 19-21 provided that subtitle C of title I of the act may be cited as "Department of General Services Establishment Act of 2011".

## § 10-551.02. Organization.

There are established 6 primary organizational functions in the Department as follows:

(1) Agency Management, which shall include the staff and organizational units needed to carry out the overall plan and direction for the Department, including coordination and management for information technology, resource allocation, human resources, procurement, fixed-cost forecasting for District facilities, and the administrative functions of the Department;

(2) Capital Construction, which shall:

(A) Implement and oversee the Department's capital improvement program for District government facilities; and

(B) Execute the capital budget program, which includes the rehabilitation of existing real property facilities and construction of new facilities supporting the District;

(3) Portfolio Management, which shall coordinate:

(A) Lease administration;

(B) Allocation of owned and leased properties to District agencies;

(C) Property acquisition and disposition; and

(D) Rent collection from entities leasing District-owned or leased properties;

(4) Facilities Management, which shall coordinate the day-to-day operations of District-owned properties by:

(A) Maintaining building assets and equipment;

(B) Performing various repairs and non-structural improvements; and

(C) Providing janitorial, trash and recycling pickup, postal, and engineering services; provided, that the District of Columbia Public Schools ("DCPS") shall remain responsible for providing janitorial services at DCPS facilities;

(5) Contracting and Procurement, which shall provide services and support in procuring for the District:

(A) The construction, architecture, and engineering services;

(B) The facilities maintenance and operation services;

(C) The real estate asset management services, including leasing and auditing;

(D) The utility contracts;

(E) The security services; and

(F) Such other services necessary or desirable to improve the effectiveness of the Department and advance the purposes of this chapter; and

(6) Protective Services Police Department, which shall coordinate, manage, and provide the security and law enforcement requirements for District government facilities.

(Sept. 14, 2011, D.C. Law 19-21, § 1023, 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 70(a), 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted “this subtitle” for “this act” [translated as “this chapter”] in (5)(F).

**Emergency legislation.** — For temporary (90 day) addition, see § 1003 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-551.01

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

### § 10-551.03. Director; appointment.

(a) The Director shall manage and administer the Department and all functions and personnel assigned thereto, including the power to redelegate to other employees and officials of the Department powers and authority as in the judgment of the Director are warranted in the interests of efficiency and sound administration.

(b) The Director shall be appointed by the Mayor with the advice and consent of the Council pursuant to § 1-523.01(a) and shall have extensive experience in construction project management or real property management.

(Sept. 14, 2011, D.C. Law 19-21, § 1024, 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) addition, see § 1004 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-551.01

### § 10-551.04. Transfers.

(a) All functions assigned, authorities delegated, positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available to the Department of Real Estate Services and the Office of Public Education Facilities Modernization are transferred to the Department.

(b) All functions assigned, authorities delegated, positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available for capital construction and real property management functions of other subordinate executive branch agencies, except for the District Department of Transportation, as the Mayor considers necessary to effectuate this chapter, are transferred to the Department.

(c) All functions assigned, authorities delegated, positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available to the Deputy Mayor for Planning and Economic Development for its asset management program, including the DC USA Garage, are transferred to the Department; provided, that with respect to funds which are deposited or held in special purpose revenue funds and fund the asset management program, the Deputy Mayor for Planning and Economic Development shall enter into a memorandum of understanding with



the Department to pay for the asset management program, including the DC USA Garage, from such special purpose revenue funds.

(Sept. 14, 2011, D.C. Law 19-21, § 1025, 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 70(b), 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted “this subtitle” for “this act” [translated as “this chapter”] in (b).

**Emergency legislation.** — For temporary (90 day) addition, see § 1005 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-551.01

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

## § 10-551.05. Inventory of real property assets.

(a) The Department shall maintain an inventory of all real property assets, based upon information provided by each District department, agency, and instrumentality under the executive control of the Mayor. The inventory shall be maintained by the Department on a centralized automated database. Information contained in the database for each property shall include the following:

- (1) A detailed description of each real property asset;
- (2) Facility condition assessments, which shall contain a proposed or actual annual budget for maintenance and deferred maintenance, and a detailed description and estimate of any needed repairs;
- (3) The street address of the property;
- (4) The property’s square and lot number;
- (5) The current and prospective future use of the property;
- (6) The area of the property in square feet and, if improved, the gross floor area, including the subsurface area and the number of stories of any building on the property;
- (7) The current assessed value of the property and any improvements;
- (8) The Ward and Advisory Neighborhood Commission boundary within which the property is located; and
- (9) Whether the real property is located within a historic district or is designated as a registered historic landmark under District or federal laws and, if so, the designation.

(b) The Department shall make available to the public on its website a database of information of the inventory of all real property assets in a form substantially similar to that as maintained and used by the Department.

(c) The Department shall maintain a facilities condition assessment of all District-owned assets under the control of the Mayor on a rolling basis of over 5 years.

(d) This section shall apply to improved commercial real property assets, whether occupied or unoccupied, and all real property assets that the Mayor has determined to be no longer needed for educational purposes and for which

jurisdiction has been transferred to the Department of Real Estate Services for disposal.

(e) The Director shall submit to the Council an annual report indicating the changes in inventory no later than 30 days after the beginning of the fiscal year.

(f) For the purposes of this section, the term “real property asset” means real property titled in the name of the District or in which the District has an interest or jurisdiction and includes all structures of a permanent character erected thereon or affixed thereto.

(Sept. 14, 2011, D.C. Law 19-21, § 1026, 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) addition, see § 1006 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-551.01

## § 10-551.06. Green building priority.

Priority consideration for the District government’s facility needs shall be given to buildings fulfilling or exceeding the LEED-NC 2.2 standard or the LEED-CS 2.0 standard at the silver level. For purposes of this subsection, the terms “LEED-CS” and “LEED-NC” shall have the same meanings as provided in § 6-1451.01(28) and (30), respectively.

(Sept. 14, 2011, D.C. Law 19-21, § 1027, 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) addition, see § 1007 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-551.01

## § 10-551.07. Representative program.

(a) The Director may contract for the services of a representative to provide real estate brokerage or real estate consulting services.

(b) Each contract for the services of a representative shall be awarded on a competitive basis to a qualified real estate professional in accordance with applicable procurement regulations.

(c) The representative shall perform an analysis of all aspects of the proposed contract or real estate transaction, including the costs and benefits, and shall negotiate on behalf of the District; provided, that the representative shall not bind the District, and the terms of the contract shall be approved by the Director and, if applicable, by the Council.

(d) Fees paid for the services of a representative may be paid by either party in a transaction, either as a percentage of the total contract value or a fixed dollar amount, according to the terms of the contract as negotiated between the District and the representative.

(Sept. 14, 2011, D.C. Law 19-21, § 1028, 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) addition, see § 1008 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

For temporary (90 day) addition of section, see § 1022 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 1022 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-551.01

## § 10-551.07a. Establishment of the Facilities Service Request Fund.

(a) There is established within the General Fund of the District of Columbia a lapsing account to be known as the Facilities Service Request Fund (“Fund”). All funds received by the Department from non-District government tenants in District government facilities for facility- related services, including maintenance, janitorial, security, construction, or other services, provided by the Department in accordance with this chapter shall be deposited into the Fund.

(b) All funds deposited into the Fund, and any interest earned on those funds, shall revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of each fiscal year.

(c) The Fund shall be administered by the Department, and shall be used for facility-related services at real property owned or leased by the District of Columbia and under the control of the Department.

(Sept. 14, 2011, D.C. Law 19-21, § 1028a, as added Sept. 20, 2012, D.C. Law 19-168, § 1022, 59 DCR 8025.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-168 added this section.

**Emergency legislation.** — For temporary addition of section, see § 1022 of the Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

**Legislative history of Law 19-168.** — Law

19-168, the “Fiscal Year 2013 Budget Support Act of 2012,” was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

## § 10-551.08. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this chapter, including rules for the valuation of the factors to be considered under § 50-551.06.

(Sept. 14, 2011, D.C. Law 19-21, § 1029, 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) addition, see § 1009 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-551.01

**Delegation of Authority.** — Delegation of Rulemaking Authority to the Department of General Services, see Mayor’s Order 2011-168, October 5, 2011 (58 DCR 8842).



**§ 10-551.09. Transition.**

To facilitate the establishment of the Department, the City Administrator is authorized to coordinate and implement the transition process for the Department. The City Administrator shall transmit to the Council, which shall approve or disapprove by resolution, an implementation plan for the new agency no later than September 1, 2011. The plan shall:

- (1) Include an organizational chart;
- (2) Identify redundant positions and functions; and
- (3) Include a plan for transferring employees that details how many employees will be required to re-apply for new positions.

(Sept. 14, 2011, D.C. Law 19-21, § 1030, 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) addition, see § 1010 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-551.01

**§ 10-551.10. See Forever Foundation — Evans Campus.**

The Department shall have the authority to direct and manage the modernization or new construction of the See Forever Foundation — Evans Campus, as authorized funds become available.

(Sept. 14, 2011, D.C. Law 19-21, § 1031, 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) addition, see § 1011 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-551.01

## CHAPTER 6. CONSTRUCTION OF PUBLIC BUILDINGS.

Sec.	Sec.
10-601. Municipal Center — Authorization to acquire property.	10-610. Annual report concerning borrowed moneys submitted to Congress.
10-602. Municipal Center — Rental.	10-611. Limitations on borrowing.
10-603. Public buildings — Loans for construction authorized; projects enumerated.	10-612. Interest on funds borrowed from Administrator of General Services.
10-604. Public buildings — Availability of funds for acquiring lands for public uses.	10-613. Advice of Secretary of Treasury regarding interest rate.
10-605. Public buildings — Reimbursement.	10-614. Authorization for advancements for Office of Recorder of Deeds.
10-606. Public buildings — Annual report submitted to Congress.	10-615. Purposes for which advancements may be used.
10-607. Authorization to borrow money from the United States for public works.	10-616. Repayment of advancements; interest.
10-608. Purposes for which borrowed moneys may be used.	10-617. Annual report submitted to Congress.
10-609. Repayment of borrowed moneys.	10-618. Preparation of plans and specifications.
	10-619. Program of construction to meet capital needs authorized; contents.
	10-620. Construction Services Fund.

### § 10-601. Municipal Center — Authorization to acquire property.

The Council of the District of Columbia is authorized and directed to acquire by purchase, condemnation, or otherwise, all of squares no. 490, 491, 533, and reservation 10, in the District of Columbia, including buildings and other structures thereon, as a site for a municipal center, and to construct thereon necessary buildings to house municipal activities; provided, that the Council is hereby authorized to close and vacate such portions of streets and alleys as lie between or within such squares, as in the judgment of said Council may be necessary, and the portions of such streets and alleys so closed and vacated shall thereupon become parts of such sites; provided further, that if this property or any part thereof shall be condemned, the Mayor of the District of Columbia shall be entitled to enter immediately into the possession of any such property for which an award shall have been made by paying the amount of such award into the Registry of the Superior Court of the District of Columbia.

(Feb. 28, 1929, 45 Stat. 1408, ch. 379, § 1; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(29).)

**Cross references.** — Wharf property, rules and regulations, see §§ 10-501.01, 10-501.02.

**Prior Codifications.** — 1981 Ed., § 9-201. 1973 Ed., § 9-201.

**Temporary Addition of Section.** — Sections 2 and 3 of D.C. Law 18-58 added sections to read as follows:

"Sec. 2. (a) The Mayor is authorized to enter into an agreement with the Boys and Girls Club of Greater Washington ('BGCGW') ('agreement'), for the acquisition of the following real property:

"(1) Frank R. Jelleff Branch property;

"(2) Mary & Daniel Loughran Clubhouse # 10; and

"(3) Eastern Branch.

"(b) The agreement shall provide that:

"(1) BGCGW and the District's obligations are contingent upon a payment to BGCGW:

"(A) In the amount of \$7.5 million at settlement;

"(B) In the amount of \$3.125 million by October 1, 2010;

"(C) In the amount of \$3.125 million by October 1, 2011;

"(D) In the amount of \$3.125 million by

October 1, 2012; and

“(E) In the amount of \$3.125 million by October 1, 2013;

“(2) All income from leases and other revenue attributable to the properties after the date of closing shall accrue to the District; and

“(3) The properties shall be accepted in ‘as is’ condition at closing.

“(c) The agreement shall contain such other terms and conditions as the Mayor determines to be in the best interest of the District of Columbia.

“Sec. 3. (a) The Mayor is authorized to contract with BGCGW for the operation of a summer camp during the summer of 2009 and for continued after-school programming through the closing on the sale of the Frank R. Jelleff Branch property, but no later than December 31, 2009, for which the District shall pay BGCGW \$60,000 before July 1, 2009, and \$20,000 before the end of 2009.

“(b) The Mayor is authorized to contract with BGCGW to open and operate the Mary & Daniel Loughran Clubhouse #10 from 4 p.m., to 10 p.m., through the summer of 2009, to provide teen recreation opportunities and a summer day camp for children from 6 through 12 years of age, for which BGCGW will receive \$33,000 before July 1, 2009. The Mayor shall negotiate with BGCGW to continue providing its customary and usual program operations through closing, but no later than December 31, 2009.

“(c)(1) The Mayor is authorized to contract with BGCGW to provide transportation for up to 26 youths currently served at Hopkins Branch and Hopkins Branch’s current Branch Director to BGCGW summer camp at the Richard England Clubhouse #14. BGCGW shall use its best efforts to identify adequate space at Hopkins Branch to provide programming in its 5 core programming areas, to serve at least 45 youths on a daily basis.

“(2) For fiscal year 2010, the District shall pay up to 50% of the budget for programming at Hopkins Branch, if the District of Columbia Housing Authority identifies adequate space in reasonably close proximity to the existing facility, in an amount not to exceed \$121,000 for the operations during fiscal year 2010.

“(d)(1) Within 60 days after execution of the agreement, the Mayor shall enter into discussions with BGCGW as to the terms and conditions for BGCGW to continue to provide programs and services at Frank R. Jelleff Branch, the Mary & Daniel Loughran Clubhouse #10, and Eastern Branch prior to completion of the sale. BGCGW shall competitively bid for the operation of programs as soon as practicable following the sale.

“(2) The Mayor shall encourage BGCGW to explore options to re-establish programs at the Eastern Branch prior to the transfer of owner-

ship to the District of Columbia, contingent upon obtaining a valid certificate of occupancy for the Eastern Branch building.

“(e) In addition to the operating funds described in subsections (a), (b), and (c) of this section, the District shall:

“(1) Contract with BGCGW for the services identified in the fiscal year 2010 budget, approved on May 12, 2009, totaling \$450,000;

“(2) Pay \$200,000 from funds identified in the fiscal year 2010 budget to BGCGW to assist BGCGW in making payments required under its lease at THEARC, located at 1901 Mississippi Avenue, S.E.; and

“(3) Subject to the availability of funds, reimburse BGCGW up to \$150,000 for the expenses associated with office renovations and other costs related to BGCGW’s planned relocation of its headquarters operations and 25 employees from the current location in Silver Spring, Maryland to the Richard England Clubhouse #14, located at 4103 Benning Road, N.E., in the District.”

Section 6(b) of D.C. Law 18-58 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) provisions for private financing of a stadium provisions, see §§ 2 and 3 of Private or Alternative Stadium Financing Emergency Act of 2004 (D.C. Act 15-642, December 20, 2004, 51 DCR 11830).

For temporary (90 day) provisions for private or alternative financing of a stadium, see §§ 2 to 4 of Private or Alternative Stadium Financing and Cost Trigger Emergency Amendment Act of 2004 (D.C. Act 15-718, December 29, 2004, 52 DCR 1786).

For temporary (90 day) provisions for private or alternative financing of a stadium, see §§ 2 to 4 of Private or Alternative Stadium Financing and Cost Trigger Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-55, March 17, 2005, 52 DCR 3174).

For temporary (90 day) additions, see §§ 2 and 3 of Boys and Girls Club of Greater Washington Property Acquisition Emergency Act of 2009 (D.C. Act 18-130, July 6, 2009, 56 DCR 5510).

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(191) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Gov-



ernmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and

the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-602. Municipal Center — Rental.

The Mayor of the District of Columbia is authorized in his discretion to rent, until their removal becomes necessary, at fair rental values, buildings acquired by the District in the municipal center, and to use such part of the rentals heretofore and hereafter collected as may be necessary for expenses of collection, repairs, and alterations to buildings by day labor or otherwise, expenses of moving and preservation and operating expenses of such buildings as may continue in private occupancy, the balance of the rentals to be covered into the Treasury to the credit of the revenues of the District of Columbia.

(July 3, 1930, 46 Stat. 957, ch. 848.)

**Prior Codifications.** — 1981 Ed., § 9-202. 1973 Ed., § 9-202.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-603. Public buildings — Loans for construction authorized; projects enumerated.

The Mayor of the District of Columbia is hereby authorized to borrow for the District of Columbia from the Federal Emergency Administration of Public Works created by the National Industrial Recovery Act (which, for the purposes of §§ 10-603 to 10-606, shall be construed to include any agency created or designated by the President for similar purposes under the Emergency Relief Appropriation Act of 1935); and said Administration is authorized to lend to said Mayor the sum of \$10,750,000, or any part thereof, out of funds authorized by law for said Administration, for the acquisition, purchase, construction, establishment, and development of a tuberculosis hospital, a sewage-disposal plant, an extension of or addition to Gallinger Municipal Hospital, a jail or other enclosure for prisoners at Lorton, Virginia, and a building or buildings for the Police Court, the Municipal Court, the Recorder of Deeds, and the Juvenile Court, or any of them, said court buildings to be located on such portions or parts of Judiciary Square, or the area bounded by 4th and 5th Streets, D and G Streets, Northwest, as shall be approved by said Mayor, and the National Capital Planning Commission, or any one or more of said projects as the said Mayor may determine; and to advance to the

Children's Hospital of the District of Columbia in compensation for clinical examination of tubercular children, the sum of \$100,000 or so much thereof as may be necessary for alterations and enlargement of building, equipment, and accessories.

(June 25, 1934, 48 Stat. 1215, ch. 743, § 1; May 6, 1935, 49 Stat. 174, ch. 91, § 1.)

**Section references.** — This section is referenced in § 10-604, § 10-605, § 10-606, § 10-611, and § 10-612.

**Prior Codifications.** — 1981 Ed., § 9-203. 1973 Ed., § 9-204.

**References in text.** — Act of April 1, 1942, 56 Stat. 190, ch. 207, § 1, consolidated the Police Court and the Municipal Court into a single court, to be known as "The Municipal Court for the District of Columbia". Act of July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1, changed the name of the court to the "District of Columbia Court of General Sessions". Act of July 29, 1970, 84 Stat. 570, Pub. L. 91-358, § 155(a), changed the name of the court to Superior Court of the District of Columbia.

**Transfer of Functions.** — The Federal Emergency Administration of Public Works was consolidated into the Federal Works Agency to be administered by the Public Works Administration by 1939 Reorganization Plan No. 1, §§ 301, 305, 4 F.R. 2729, 53 Stat. 1426. All functions of the Public Works Administration and the Commissioner of Public Works, in the Federal Works Agency, were transferred to the Federal Works Administrator by Executive Order No. 9357, June 30, 1943, 8 F.R. 9041. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949,

63 Stat. 380, ch. 288. Both the Federal Works Agency and the Office of Federal Works Administrator were abolished by § 103(b) of the Act of June 30, 1949.

The functions, powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of June 6, 1924, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-604. Public buildings — Availability of funds for acquiring lands for public uses.

The sum authorized by § 10-603, or any part thereof, shall, when borrowed, be available to the Mayor of the District of Columbia for the acquisition by dedication, purchase, or condemnation of the fee simple title to land, or rights or easements in land, for the public uses authorized by §§ 10-603 to 10-606, and for the preparation of plans, designs, estimates, models, and contracts, for architectural, and other necessary professional services, without reference to § 5 of Title 41, United States Code, for the construction of buildings, including materials and labor, heating, lighting, elevators, plumbing, landscaping, and all other appurtenances, and the purchase and installation of machinery, apparatus, and any and all other expenditures necessary for or incident to the complete construction of the aforesaid buildings and plants. All contracts, agreements, and proceedings in court for condemnation or otherwise, pursuant



to §§ 10-603 to 10-606, shall be had and made in accordance with existing provisions of law, except as otherwise herein provided.

(June 25, 1934, 48 Stat. 1215, ch. 743, § 2.)

**Prior Codifications.** — 1981 Ed., § 9-204. 1973 Ed., § 9-205.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-605. Public buildings — Reimbursement.

Seventy per centum of so much of said sum authorized by § 10-603 as may be expended as therein provided shall be reimbursed to the Federal Emergency Administration of Public Works from any funds in the Treasury to the credit of the District of Columbia, as follows, to wit: Not less than \$1,000,000 on the 30th day of June each year after such sum shall have been advanced to said District until the full amount expended hereunder is reimbursed, without interest for the 1st 3 years after any such advances and with interest at not exceeding 4 per centum per year thereafter on annual balances as of each June 30th; provided, that whenever the District of Columbia is under obligation by virtue of the provisions of § 4 of Public Act No. 284, 71st Congress, entitled "An Act for the acquisition, establishment, and development of the George Washington Memorial Parkway, and so forth," approved May 29, 1930 (46 Stat. 485, ch. 354), to reimburse the United States for sums appropriated by the Congress under that Act, the total reimbursement required under both that Act and §§ 10-603 to 10-606 shall be not less nor more than \$1,300,000 in any 1 fiscal year; provided, that the Mayor of the District of Columbia may, in his discretion, repay more than said amount; and provided further, that the Mayor may, in his discretion, allocate any reimbursement as between the sums due by him to the United States under the aforesaid Act and the sums due by him to the Federal Emergency Administration of Public Works under §§ 10-603 to 10-606; provided, that such sums as may be necessary for the reimbursement herein required of or permitted by the District of Columbia, and for the payment of interest, shall be included in the annual estimates of the Mayor of the District of Columbia, the 1st reimbursement to be made on June 30, 1936. Until 70 per centum of so much of said sum authorized by § 10-603 as may be expended as therein provided shall be reimbursed to the Federal Emergency Administration of Public Works, with interest as provided in this section, \$.10 of the tax levied and collected upon each \$100 of the assessed valuation of all real and tangible personal property subject to taxation in the District of Columbia shall be deposited in the Treasury of the United States to the credit of a special account for such reimbursement to the Federal Emergency



Administration of Public Works and shall not be available for any other purpose. The Mayor may, in his discretion, anticipate from said special account the payments required by §§ 10-603 to 10-606; provided, that whenever the District of Columbia is under obligation by virtue of the provisions of § 4 of said Public Act No. 284, 71st Congress, reimbursement shall be not less than \$300,000 in any 1 fiscal year.

(June 25, 1934, 48 Stat. 1215, ch. 743, § 3; May 6, 1935, 49 Stat. 175, ch. 91, § 2.)

**Prior Codifications.** — 1981 Ed., § 9-205.  
1973 Ed., § 9-206.

**Transfer of Functions.** — The Federal Emergency Administration of Public Works was consolidated into the Federal Works Agency to be administered by the Public Works Administration by 1939 Reorganization Plan No. 1, §§ 301, 305, 4 F.R. 2729, 53 Stat. 1426. All functions of the Public Works Administration and the Commissioner of Public Works, in the Federal Works Agency, were transferred to the Federal Works Administrator by Executive Order No. 9357, June 30, 1943, 8 F.R. 9041. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. Both the Federal Works Agency and the Office of Federal Works Administrator were abolished by § 103(b) of the Act of June 30, 1949.

**Change in Government.** — This section

originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-606. Public buildings — Annual report submitted to Congress.

The Mayor of the District of Columbia shall submit with his annual estimates to the Senate and the House of Representatives a report of his activities and expenditures under § 10-603.

(June 25, 1934, 48 Stat. 1216, ch. 743, § 4.)

**Prior Codifications.** — 1981 Ed., § 9-206.  
1973 Ed., § 9-207.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-607. Authorization to borrow money from the United States for public works.

The Mayor of the District of Columbia is hereby authorized to accept advancements for the District of Columbia from the Federal Emergency Administration of Public Works, created by the National Industrial Recovery Act, and said Administration with the approval of the President is authorized to advance to said Mayor the sum of \$18,150,000, or any part thereof, in addition to any sums heretofore advanced to the District of Columbia by said Administration, out of funds authorized by law for said Administration, for the acquisition, purchase, construction, establishment, and development of public works, including among others a building or buildings for the Municipal Court, the Recorder of Deeds, and the Juvenile Court, or any of them, said buildings to be located on such portions or parts of Judiciary Square, or the area bounded by 4th and 5th Streets, D and G Streets, Northwest, or upon such other area or areas as shall be approved by said Mayor and the National Capital Planning Commission and the making of such advances is hereby included among the purposes for which funds heretofore appropriated or authorized for said Administration, including funds appropriated by the Public Works Administration Appropriation Act of 1938, may be used, in addition to the other purposes specified in the respective acts appropriating or authorizing said funds.

(June 25, 1938, 52 Stat. 1203, ch. 704, § 1.)

**Section references.** — This section is referenced in § 10-608, § 10-609, and § 10-610.

**Prior Codifications.** — 1981 Ed., § 9-207. 1973 Ed., § 9-208.

**Transfer of Functions.** — The Federal Emergency Administration of Public Works was consolidated into the Federal Works Agency to be administered by the Public Works Administration by 1939 Reorganization Plan No. 1, §§ 301, 305, 4 F.R. 2729, 53 Stat. 1426. All functions of the Public Works Administration and the Commissioner of Public Works, in the Federal Works Agency, were transferred to the Federal Works Administrator by Executive Order No. 9357, June 30, 1943, 8 F.R. 9041. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. Both the Federal Works Agency and the Office of Federal Works Administrator were abolished by § 103(b) of the Act of June 30, 1949.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-608. Purposes for which borrowed moneys may be used.

The sum authorized by § 10-607, or any part thereof shall, when advanced, be available to the Mayor of the District of Columbia for the acquisition by



dedication, purchase, or condemnation of the fee simple title to land, or rights or easements in land, for the public uses authorized by §§ 10-607 to 10-611, and for the preparation of plans, designs, estimates, models, and specifications, and for architectural and other necessary professional services without reference to § 2-225.05 [repealed], for the construction of buildings, including materials and labor, heating, lighting, elevators, plumbing, landscaping, and all other appurtenances, and the purchase and installation of machinery, furniture, equipment, apparatus, and any and all other expenditures necessary for or incident to the complete construction and equipment for use of the aforesaid buildings and plants. All contracts, agreements, and proceedings in court for condemnation or otherwise, pursuant to §§ 10-607 to 10-611 shall be had and made in accordance with existing provisions of law except as otherwise herein provided.

(June 25, 1938, 52 Stat. 1204, ch. 704, § 2.)

**Prior Codifications.** — 1981 Ed., § 9-208.  
1973 Ed., § 9-209.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-609. Repayment of borrowed moneys.

The Federal Emergency Administration of Public Works shall be repaid 55 per centum of any moneys advanced under § 10-607 in annual instalments over a period of not to exceed 25 years with interest thereon for the period of amortization; provided, that such sums as may be necessary for the reimbursement herein required of the District of Columbia, and for the payment of interest, shall be included in the annual estimates of the Mayor of the District of Columbia, the 1st reimbursement to be made on June 30, 1941; provided further, that whenever the District of Columbia is under obligation by virtue of the provisions of § 4 of Public Act No. 284, 71st Congress, reimbursement under that Act shall be not less than \$300,000 in any 1 fiscal year.

(June 25, 1938, 52 Stat. 1204, ch. 704, § 3.)

**Prior Codifications.** — 1981 Ed., § 9-209.  
1973 Ed., § 9-210.

**Transfer of Functions.** — The Federal Emergency Administration of Public Works was consolidated into the Federal Works Agency to be administered by the Public Works Administration by 1939 Reorganization Plan No. 1, §§ 301, 305, 4 F.R. 2729, 53 Stat. 1426. All functions of the Public Works Administration and the Commissioner of Public Works, in

the Federal Works Agency, were transferred to the Federal Works Administrator by Executive Order No. 9357, June 30, 1943, 8 F.R. 9041. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. Both the Federal Works Agency and the Office of Federal Works Admin-



istrator were abolished by § 103(b) of the Act of June 30, 1949.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-610. Annual report concerning borrowed moneys submitted to Congress.

The Mayor of the District of Columbia shall submit with his annual estimates to the Congress a report of his activities and expenditures under § 10-607.

(June 25, 1938, 52 Stat. 1204, ch. 704, § 4.)

**Prior Codifications.** — 1981 Ed., § 9-210. 1973 Ed., § 9-211.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-611. Limitations on borrowing.

The Mayor of the District of Columbia is not authorized to borrow any further sum or sums under the provisions of §§ 10-603 to 10-606.

(June 25, 1938, 52 Stat. 1204, ch. 704, § 5.)

**Section references.** — This section is referenced in § 10-612.

**Prior Codifications.** — 1981 Ed., § 9-211. 1973 Ed., § 9-212.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-612. Interest on funds borrowed from Administrator of General Services.

The Administrator of General Services and the Mayor of the District of Columbia are authorized to amend existing contracts and agreements by which funds have been loaned or advanced or are obligated to be loaned or advanced to said Mayor, for the acquisition, purchase, construction, establishment, and development of public works, pursuant to the authority of §§ 10-603 to 10-606, or §§ 10-607 to 10-611, so as to provide for the payment of interest on the amounts of such loans and advances to be repaid to the Administrator of General Services at such rate as would, in the opinion of the Secretary of the Treasury, be the lowest interest rate available to the District of Columbia were said District authorized by law to issue and sell obligations to the public at the par value thereof, in a sum equal to the repayable amounts of such loans and advances, maturing serially over a period of 15 years in approximately equal annual installments, including both principal and interest, and secured by a 1st pledge of and lien upon all the general-fund revenues of said District.

(July 1, 1940, 54 Stat. 706, ch. 494, § 1.)

**Prior Codifications.** — 1981 Ed., § 9-212.  
1973 Ed., § 9-213.

**Transfer of Functions.** — The Federal Emergency Administration of Public Works was consolidated into the Federal Works Agency to be administered by the Public Works Administration by 1939 Reorganization Plan No. 1, §§ 301, 305, 4 F.R. 2729, 53 Stat. 1426. All functions of the Public Works Administration and the Commissioner of Public Works, in the Federal Works Agency, were transferred to the Federal Works Administrator by Executive Order No. 9357, June 30, 1943, 8 F.R. 9041. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. Both the Federal Works Agency and the Office of Federal Works Administrator were abolished by § 103(b) of the Act of June 30, 1949.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-613. Advice of Secretary of Treasury regarding interest rate.

The Secretary of the Treasury is authorized and directed to advise the Administrator of General Services and the Mayor of the District of Columbia of such interest rate which, in his opinion and in the aforesaid circumstances, would be available to the District of Columbia on July 1, 1940.

(July 1, 1940, 54 Stat. 706, ch. 494, § 2.)

**Prior Codifications.** — 1981 Ed., § 9-213. 1973 Ed., § 9-214.



**Transfer of Functions.** — The Federal Emergency Administration of Public Works was consolidated into the Federal Works Agency to be administered by the Public Works Administration by 1939 Reorganization Plan No. 1, §§ 301, 305, 4 F.R. 2729, 53 Stat. 1426. All functions of the Public Works Administration and the Commissioner of Public Works, in the Federal Works Agency, were transferred to the Federal Works Administrator by Executive Order No. 9357, June 30, 1943, 8 F.R. 9041. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. Both the Federal Works Agency and the Office of Federal Works Administrator were abolished by § 103(b) of the Act of June 30, 1949.

**Change in Government.** — This section originated at a time when local government

powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-614. Authorization for advancements for Office of Recorder of Deeds.

The Mayor of the District of Columbia is hereby authorized to accept advancements for the District of Columbia from the Federal Emergency Administration of Public Works, or its successor, and said Administration, or its successor, with the approval of the President, is authorized to advance to said Mayor the sum of \$450,000, or any part thereof, in addition to any sums heretofore advanced to the District of Columbia by said Administration, or its successor, out of funds authorized by law for said Administration, or its successor, for a building for the Office of the Recorder of Deeds to be located on premises now known as 515 D Street Northwest, formerly used as the Police Court, as recommended by a committee appointed by the Mayor under order of January 12, 1940, and the making of such advances is hereby included among the purposes for which funds heretofore appropriated or authorized for said Administration or its successor, including funds appropriated by the Public Works Administration Appropriation Act of 1938, may be used, in addition to the other purposes specified in the respective acts appropriating or authorizing said funds.

(July 11, 1940, 54 Stat. 757, ch. 583, § 1.)

**Section references.** — This section is referenced in § 10-615, § 10-616, and § 10-617.

**Prior Codifications.** — 1981 Ed., § 9-214. 1973 Ed., § 9-215.

**References in text.** — Act of April 1, 1942, 56 Stat. 190, ch. 207, § 1, consolidated the Police Court and the Municipal Court into a single court, to be known as "The Municipal Court for the District of Columbia". Act of July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1, changed the name of the court to the "District of Columbia Court of General Sessions". Act of July 29,

1970, 84 Stat. 570, Pub. L. 91-358, § 155(a), changed the name of the court to Superior Court of the District of Columbia.

**Transfer of Functions.** — The Federal Emergency Administration of Public Works was consolidated into the Federal Works Agency to be administered by the Public Works Administration by 1939 Reorganization Plan No. 1, §§ 301, 305, 4 F.R. 2729, 53 Stat. 1426. All functions of the Public Works Administration and the Commissioner of Public Works, in the Federal Works Agency, were transferred to



the Federal Works Administrator by Executive Order No. 9357, June 30, 1943, 8 F.R. 9041. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. Both the Federal Works Agency and the Office of Federal Works Administrator were abolished by § 103(b) of the Act of June 30, 1949.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmen-

tal Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-615. Purposes for which advancements may be used.

The sum authorized by § 10-614, or any part thereof shall, when advanced, be available to the Mayor of the District of Columbia for the preparation of plans, designs, estimates, models, and specifications; and for architectural and other necessary professional services required for carrying out the provisions of §§ 10-614 to 10-618; and for the construction of a Recorder of Deeds building, including materials and labor, heating, lighting, elevators, plumbing, landscaping, transportation or rental thereof, and all other appurtenances, and the purchase and installation of machinery, furniture, equipment, apparatus, and any and all other expenditures necessary for or incident to the complete construction and equipment for use of the aforesaid building and plant.

(July 11, 1940, 54 Stat. 757, ch. 583, § 2.)

**Prior Codifications.** — 1981 Ed., § 9-215.  
1973 Ed., § 9-216.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-616. Repayment of advancements; interest.

The Federal Emergency Administration of Public Works, or its successor, shall be repaid 55 per centum of any moneys advanced under § 10-614 in annual instalments over a period of not to exceed 25 years with interest thereon at such rate as is agreed upon by the Mayor of the District and the Federal Emergency Administration of Public Works, or its successor, for the period of amortization; provided, that such sums as may be necessary for the

reimbursement herein required of the District of Columbia, and for the payment of interest, shall be included in the annual estimates of the Mayor of the District of Columbia, the 1st reimbursement with interest to be made not later than June 30, 1944; provided further, that whenever the District of Columbia is under obligation by virtue of the provisions of § 4 of Public Act No. 284, 71st Congress, 46 Stat. 482, ch. 354, reimbursement under that Act shall not be less than \$300,000 in any 1 fiscal year.

(July 11, 1940, 54 Stat. 757, ch. 583, § 3.)

**Prior Codifications.** — 1981 Ed., § 9-216. 1973 Ed., § 9-217.

**Transfer of Functions.** — The Federal Emergency Administration of Public Works was consolidated into the Federal Works Administration by 1939 Reorganization Plan No. 1, §§ 301, 305, 4 F.R. 2729, 53 Stat. 1426. All functions of the Public Works Administration and the Commissioner of Public Works, in the Federal Works Agency, were transferred to the Federal Works Administrator by Executive Order No. 9357, June 30, 1943, 8 F.R. 9041. All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, were transferred to the Administrator of General Services by § 103(a) of the Act of June 30, 1949, 63 Stat. 380, ch. 288. Both the Federal Works Agency and the Office of Federal Works Administrator were abolished by § 103(b) of the Act of June 30, 1949.

**Change in Government.** — This section

originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-617. Annual report submitted to Congress.

The Mayor of the District of Columbia shall submit with his annual estimates to the Congress a report of his activities and expenditures under § 10-614.

(July 11, 1940, 54 Stat. 758, ch. 583, § 4.)

**Prior Codifications.** — 1981 Ed., § 9-217. 1973 Ed., § 9-218.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.



## § 10-618. Preparation of plans and specifications.

The plans and specifications for all building construction administered by the Mayor of the District of Columbia shall be prepared under the supervision of the Municipal Architect, and shall be approved by the Mayor and all such construction shall be in conformity to such plans and specifications.

(July 1, 1943, 57 Stat. 324, ch. 184, § 1; May 23, 1990, D.C. Law 8-131, § 3, 37 DCR 2211; June 22, 1990, D.C. Law 8-143, § 3, 37 DCR 2972.)

**Prior Codifications.** — 1981 Ed., § 9-218. 1973 Ed., § 9-219.

**Legislative history of Law 8-131.** — Law 8-131, the “Board of Education Capital Construction Contracting Authority Temporary Act of 1990,” was introduced in Council and assigned Bill No. 8-529. The Bill was adopted on first and second readings on February 27, 1990, and March 13, 1990, respectively. Signed by the Mayor on March 27, 1990, it was assigned Act No. 8-183 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-143.** — Law 8-143, the “Board of Education Capital Construction Contracting Authority Act of 1990,” was introduced in Council and assigned Bill No. 8-504, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on March 27, 1990, and April 10, 1990, respectively. Signed by the Mayor on April 26, 1990, it was assigned Act No. 8-199 and transmitted to both Houses of Congress for its review.

**Change in government.** — Change in government This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-619. Program of construction to meet capital needs authorized; contents.

A program of construction to meet capital needs of the government of the District of Columbia is hereby authorized. Such program shall include, without limitation, projects relating to activities to meet the needs of the public in the fields of education, health, welfare, public safety, recreation, and other general government activities.

(June 6, 1958, 72 Stat. 183, Pub. L. 85-451, § 1; Aug. 27, 1963, 77 Stat. 130, Pub. L. 88-104, § 2(a), (b); Sept. 8, 1965, 79 Stat. 665, Pub. L. 89-173, § 5(b); Sept. 30, 1966, 80 Stat. 857, Pub. L. 89-610, title VI, § 601; Nov. 7, 1966, 80 Stat. 1434, Pub. L. 89-791, title III, § 301(b); Nov. 3, 1967, 81 Stat. 339, Pub. L. 90-120, title II, §§ 201, 202; Dec. 9, 1969, 83 Stat. 321, Pub. L. 91-143, § 4(b); Jan. 5, 1971, 84 Stat. 1930, Pub. L. 91-650, title I, § 103(a); July 13, 1972, 86 Stat. 466, Pub. L. 92-349, title II, § 201(b); Oct. 21, 1972, 86 Stat. 1002, Pub. L. 92-517, title II, § 201(b); Dec. 24, 1973, 87 Stat. 832, Pub. L. 93-198, title VII, § 743(a).)

**Cross references.** — Appropriations, public higher educational institutions, see § 38-1106.

Multiyear capital improvements plan, see § 1-204.44.



**Section references.** — This section is referenced in § 38-1106.

**Prior Codifications.** — 1981 Ed., § 9-219. 1973 Ed., § 9-220.

**Editor's notes.** — Appropriations authorized: Public Law 103-334, 108 Stat. 2581, the District of Columbia Appropriations Act, 1995, provided for construction projects \$5,600,000, as authorized by §§ 34-2405.01 through 34-2405.08; the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364 [34-2413.08 and 34-2413.10] ); §§ 10-610 and 47-3404 [section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 9-1111.01, 9-1111.02, 9-1111.03, 9-1111.04 and 9-1111.05)]; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That \$140,000 shall be available for project management and \$110,000 shall be available for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: Provided further, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 9-107.01, note), for which funds are pro-

vided by this appropriation title, shall expire on September 30, 1996, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1996: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

Appropriations authorized: Public Law 104-194, 110 Stat. 2362, the District of Columbia Appropriations Act, 1997, provided for construction projects an increase of \$46,923,000 (including an increase of \$34,000,000 for the highway trust fund, reallocations and rescissions for a net rescission of \$120,496,000 from local funds appropriated under this heading in prior fiscal years and an additional \$133,419,000 in Federal funds), as authorized by §§ 34-2405.01 through 34-2405.08; §§ 34-2413.08, 34-2413.10 and 34-2304; and §§ 10-619 and 47-3404; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 9-107.01, note), for which funds are provided by this appropriation title, shall expire on September 30, 1998, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1998: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

## CASE NOTES

### In general.

District of Columbia Council, pursuant to its powers of ordinary legislation, can remove substantive authorization for funded project but, to extent Congress has appropriated funds for project, council can halt further expenditure only through more elaborate requirements of budget process, even though project has been formally deauthorized, and thus substantial deauthorization by council can halt funded project during current fiscal year only if implemented by supplemental budget request act followed by congressional supplemental appro-

priations act. (Per Ferren, J., with two Judges concurring and two Judges concurring in result.) Budget and Accounting Act, 1921, § 201(a)(b); 31 U.S.C. § 11(b); D.C. Code 1978 Supp. §§ 47-221(c), 47-224. *Convention Center Referendum Committee v. District of Columbia Bd. of Elections & Ethics*, 441 A.2d 889, 1981 D.C. App. LEXIS 378 (1981).

Where initial plan to build convention center, to finance it in certain manner and to construct it on specific site had previously been approved, where budget request for funds had been made and funds duly appropriated, and where all

that remained was for mayor to continue to provide monies from appropriated funds, initiative which would prohibit mayor and District of Columbia Council from providing any further public funds or incurring any debt for completion of convention center was primarily concerned with administrative and executive functions of mayor, and did not present primarily a

legislative matter, and thus proposed initiative concerned improper subject for initiative. D.C. Code 1980 Supp. §§ 1-181 to 1-187, 1-181(a); D.C. Code 1978 Supp. §§ 1-162, 47-221 to 47-228. Convention Center Referendum Committee v. District of Columbia Bd. of Elections & Ethics, 441 A.2d 889, 1981 D.C. App. LEXIS 378 (1981).

## § 10-620. Construction Services Fund.

(a) There is established in the Treasury of the United States a permanent working fund, without fiscal year limitation, to be known as the Construction Services Fund, Department of General Services, District of Columbia. The Mayor is authorized to transfer to such Fund from capital outlay appropriations for public building construction such amounts as he may deem necessary to carry out the purposes of this section, and, subject to subsequent adjustment, advances and reimbursements may be made to such Fund from appropriations for services to other departments and agencies of the District government, without reference to fiscal year limitations on such appropriations. The Fund shall be available for expenses incurred in the initial planning for construction projects, for work performed under contract or otherwise, including, but not limited to, preliminary planning and related expenses, surveys, preparation of plans and specifications, soil investigation, administration, overhead, planning design, engineering, inspection, and contract management.

(b) The Council of the District of Columbia shall annually review the budget of the Construction Services Fund within 90 days after the annual District of Columbia Appropriations Act is enacted into law.

(c) The Council of the District of Columbia, the Board of Higher Education, the Board of Vocational Education, the Board of Education, the Public Library Board, and the Executive Director of the District of Columbia Court System shall be kept fully advised, at least semiannually, of the status of projects and activities within their respective areas of concern which are financed from the Construction Services Fund.

(Oct. 26, 1973, 87 Stat. 506, Pub. L. 93-140, § 13.)

**Prior Codifications.** — 1981 Ed., § 9-220. 1973 Ed., § 9-221.

**Transfer of Functions.** — The functions of the Department of General Services were transferred, in part, to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984, and transferred, in part, to the Department of Administrative Services by Reorganization Plan No. 5 of 1983, effective March 1, 1984.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Colum-

bia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.



## CHAPTER 7. REPAIRS AND IMPROVEMENTS OF PUBLIC BUILDINGS.

Sec.

10-701. [Repealed].

10-702. Inspection of public buildings for lead paint — Required.

Sec.

10-703. Inspection of public buildings for lead paint — Appropriations.

## § 10-701. District of Columbia Leasing Fees Working Fund. [Repealed].

Repealed.

(July 1, 1954, 68 Stat. 393, ch. 449, § 5; July 23, 1959, 73 Stat. 238, Pub. L. 86-104, § 15; Apr. 8, 1960, 74 Stat. 30, Pub. L. 86-412, § 15; Oct. 20, 2005, D.C. Law 16-33, § 1031, 52 DCR 7503; Sept. 24, 2010, D.C. Law 18-223, §§ 1002, 1012, 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 9019, 58 DCR 6226.)

**Prior Codifications.** — 1981 Ed., § 9-301. 1973 Ed., § 9-501.

**Temporary Amendment of Section.** — Section 102 of D.C. Law 18-222 substituted “Fund; provided, that the income received from the lease of the Washington Center for Aging Service building and property, located at 2601 18th Street, N.E., shall be deposited in, and credited to the unrestricted fund balance of, the General Fund of the District of Columbia” for “Fund”.

Section 2002(b) of D.C. Law 18-222 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 1031 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 102 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) amendment of section, see § 102 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

For temporary (90 day) amendment of section, see §§ 1002 and 1012 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 16-33.** — Law 16-33, the “Fiscal Year 2006 Budget Support Act of 2005”, was introduced in Council and assigned Bill No. 16-200 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 2005, and June 21, 2005, respectively. Signed by the Mayor on July 26, 2005, it was assigned Act No. 16-166 and transmitted to both Houses of Congress for its review. D.C.

Law 16-33 became effective on October 20, 2005.

**Legislative history of Law 18-223.** — Law 18-223, the “Fiscal Year 2011 Budget Support Act of 2010”, was introduced in Council and assigned Bill No. 18-731, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 26, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-301.

**Short title.** — Short title of subtitle G of title I of Law 16-33: Section 1030 of D.C. Law 16-33 provided that subtitle G of title I of the act may be cited as the Leasing Fees Working Fund Amendment Act of 2005.

Short title: Section 1001 of D.C. Law 18-223 provided that subtitle A of title I of the act may be cited as the “Lease Income from Former School Buildings Authorization Amendment Act of 2010”.

Short title: Section 1011 of D.C. Law 18-223 provided that subtitle B of title I of the act may be cited as the “Washington Center for Aging Services Lease Income Amendment Act of 2010”.

**References in text.** — The Department of Buildings and Grounds was replaced by the Department of General Services by Commissioner’s Order 69-96, dated March 7, 1969.

The functions of the Department of General Services were transferred, in part, to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984, and transferred, in part, to the Department of Administrative Services by Reorganization Plan No. 5 of 1983, effective March 1, 1984.



**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-702. Inspection of public buildings for lead paint — Required.

(a) The Mayor of the District of Columbia is hereby authorized and directed to inspect for the presence of lead paint in all public buildings and publicly-operated residences belonging to or in the possession of the District of Columbia and regularly frequented by children under 8 years of age. Where there are reasonable grounds to believe that a lead-based paint hazard exists to the health of such children, because of the presence of lead or lead compounds in the paint, plaster, or structural materials of any such interior surface, the Mayor shall cause an analysis to be made of the paint, plaster, or structural materials of the interior structure to determine the quantity of lead or lead compounds contained in the material. If the analysis reveals the presence of lead-based paint hazards, as identified by the United States Environmental Protection Agency in 40 C.F.R. § 745.65(a) through (c), the Mayor shall cause the lead condition to be repaired or controlled; provided, that the repairs and controls shall be of a sufficient quality to equal or exceed that required of private housing located in the District of Columbia pursuant to regulations promulgated with respect to housing in the District of Columbia.

(b) When an inspection mandated by subsection (a) of this section indicates the necessity for a repair, the repair shall begin not later than 10 days after the inspection.

(c) All inspections mandated by subsection (a) of this section shall be commenced within 180 days after October 26, 1977.

(Oct. 26, 1977, D.C. Law 2-28, § 2, 24 DCR 3721; Apr. 12, 2005, D.C. Law 15-347, § 3, 52 DCR 2627.)

**Cross references.** — Lead-based paint activities in the District, inspections by the Mayor pursuant to Lead-Based Paint Abatement and Control Act of 1996, see § 8-115.09.

**Section references.** — This section is referenced in § 10-703.

**Prior Codifications.** — 1981 Ed., § 9-302. 1973 Ed., § 9-502.

**Effect of amendments.** — D.C. Law 15-347 rewrote subsec. (a) which had read as follows: “(a) The Mayor of the District of Columbia is hereby authorized and directed to inspect for the presence of lead paint in all public buildings and publicly-operated residences belonging to

or in the possession of the District of Columbia and regularly frequented by children under 6 years of age. Where there are reasonable grounds to believe that a hazard exists to the health of such children because of the presence of lead or lead compounds in the paint, plaster, or structural materials of any such interior surface, the Mayor shall cause an analysis to be made of the paint, plaster, or structural materials of the interior structure to determine the quantity of lead or lead compounds contained in the material. If the analysis reveals the presence of lead or lead compounds in a quantity in excess of 1 milligram per square centi-

meter of surface or in a quantity otherwise sufficient to constitute a hazard to the health of any user of the building, the Mayor shall cause the lead condition to be repaired; provided, that the repairs shall be of a sufficient quality to equal or exceed that required of private housing located in the District of Columbia pursuant to regulations promulgated with respect to housing in the District of Columbia."

**Legislative history of Law 2-28.** — Law 2-28, the "Public Property Lead Elimination Act of 1977," was introduced in Council and assigned Bill No. 2-85, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on June 28, 1977 and July 12, 1977, respectively. Signed by the Mayor on August 1, 1977, it was assigned Act No. 2-63 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 15-347.** — Law 15-347, the "Lead-Bases Paint Abatement and Control Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-769 which was referred to the Committee Human Services. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 19, 2005, it was assigned Act No. 15-769 and transmitted to both Houses of Congress for its review. D.C. Law 15-347 became effective on April 12, 2005.

**New implementing regulations.** — New implementing regulations: Pursuant to this section, the following new regulations were adopted in 1983: The "Lead-Based Paint Poisoning Prevention Act of 1983" (D.C. Law 5-35, Oct. 8, 1983, 30 DCR 4156).

## § 10-703. Inspection of public buildings for lead paint — Appropriations.

(a) There is hereby authorized to be appropriated from the funds available to the government of the District of Columbia in the budget an amount not to exceed \$1,120,000 for the fiscal year commencing on October 1, 1978, to carry out the purposes of this section and § 10-702; provided, however, that grant funds available to the government of the District of Columbia may be expended to carry out the purposes of this section and § 10-702 without regard to any limitation in this section.

(b) In each fiscal year commencing on or after October 1, 1979, \$50,000 are authorized to be appropriated to carry out this section and § 10-702; provided, that authorization is hereby granted to expend funds in any fiscal year commencing on or after October 1, 1979, up to the amount authorized in subsection (a) of this section but not appropriated in the fiscal year commencing on October 1, 1978.

(Oct. 26, 1977, D.C. Law 2-28, § 3, 24 DCR 3721.)

**Prior Codifications.** — 1981 Ed., § 9-303. 1973 Ed., § 9-503.

**Legislative history of Law 2-28.** — For

legislative history of D.C. Law 2-28, see Historical and Statutory Notes following § 10-702.

CHAPTER 7A. REMOVAL OF TREES ON THE PUBLIC LAND.

Sec.

10-731. Notice to be displayed on the tree.

§ 10-731. Notice to be displayed on the tree.

Prior to the removal of a tree on the public land, unless the tree is dead or dangerous and in the need of immediate removal, the Department of Public Works, Tree and Landscape Division, shall provide a 7-day written notice, excluding Saturdays, Sundays, and legal holidays, to be displayed on the tree, notwithstanding the notice requirement pursuant to § 6-804.

(June 19, 2001, D.C. Law 13-314, § 2, 48 DCR 2076.)

**Cross references.** — District of Columbia fiscal management, capital improvements, authorization of lease-purchase financing, see § 1-204.90.

John A. Wilson Building, exclusive authority of the Council of the District of Columbia, see § 10-1301.

Public Parking Authority, acquisition of real property, see § 50-2509.

**Legislative history of Law 13-314.** — Law 13-314, the “Tree Protection Amendment Act of

2000”, was introduced in Council and assigned Bill No. 13-928, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 24, 2000, it was assigned Act No. 13-594 and transmitted to both Houses of Congress for its review. D.C. Law 13-314 became effective on June 19, 2001.



CHAPTER 8. SALE OF PUBLIC LANDS.

*Subchapter I. General*

- Sec.  
10-801. Authorization; description of property; submission and approval of resolution; reacquisition rights; notice.  
10-801.01. "Real property" defined.  
10-802. Expenses of sale; deposit of net proceeds.  
10-803. Execution of deeds.  
10-803.01. Unused and underutilized public school buildings.  
10-804. Secretary of the Interior to sell certain real estate — Authorization.  
10-805. Secretary of the Interior to sell certain real estate — Solicitation for bids.

Sec.

- 10-806. Secretary of the Interior to sell certain real estate — Expenses of sales.  
10-807. [Repealed].

*Subchapter II. Special Disposal Procedures for Certain Properties*

- 10-831. Properties subject to disposition.  
10-832. Method of disposition.  
10-833. Minimum standards for disposition.  
10-834. Subsidies.  
10-835. Evaluation criteria of a request for proposals.  
10-836. Disposition of properties.  
10-837. Evaluation committee.  
10-838. Quarterly report.  
10-839. Certain properties approved for disposition.

*Subchapter I. General.*

**§ 10-801. Authorization; description of property; submission and approval of resolution; reacquisition rights; notice.**

(a)(1) Except for real property disposed of pursuant to § 6-1005(c), the Mayor is authorized and empowered, in his discretion, for the best interests of the District of Columbia ("District"), and with the approval of the Council by resolution, to sell, convey, lease (inclusive of options) for a period of greater than 20 years, exchange, or otherwise dispose of real property, in whole or in part, now or hereafter owned in fee simple by the District, whether purchased with appropriated, grant, or other funds, the proceeds of general obligation bonds or tax revenue anticipation notes issued by the District government, or United States Treasury Notes, or obtained by any other means including exchange, condemnation, eminent domain, gift, dedication, donation, devise or assignment, for municipal, community development, or other public purpose, which the Council finds to be no longer required for public purposes.

(2) The Mayor shall submit separate resolutions for the determination that the real property is no longer required for public purposes pursuant to subsection (a-1) of this section and for the approval of its disposition pursuant to subsection (b) of this section.

(a-1)(1) If the Mayor believes that real property is no longer required for public purposes, the Mayor shall submit to the Council a proposed resolution which includes a finding that the real property is no longer required for public purposes. In the proposed resolution submitted to the Council, the Mayor shall also provide a description of the real property and a detailed explanation as to why the real property is no longer required for public purposes.

(2) The proposed resolution shall be accompanied by an analysis setting forth:

- (A) Whether the real property has any necessary use by the District;

(B) Why the determination that the real property is no longer required for public purposes is in the best interests of the District; and

(C) A summary of public comments received at the public hearing required under paragraph (4) of this subsection.

(3) The proposed resolution shall be submitted to the Council for a 90-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed resolution within the 90-day period, the proposed resolution shall be deemed disapproved.

(4) Before submitting a proposed resolution pursuant to this subsection, the Mayor shall hold at least one public hearing on the finding that the real property is no longer required for public purposes. The hearing shall be held at an accessible evening or weekend time and in an accessible location in the vicinity of the real property. The Mayor shall provide at least 30 days notice to Advisory Neighborhood Commissions of the public hearing and shall publicize the hearing by placing a notice in the District of Columbia Register at least 15 days before the hearing.

(5) The Mayor shall be deemed to have met the requirements of paragraphs (2)(C) and (4) of this subsection if, prior to April 19, 2010, the Mayor submitted the proposed resolution pursuant to this subsection to the Council and, prior to March 10, 2010, the Mayor engaged in community outreach efforts regarding the real property's proposed redevelopment; provided, that the community outreach:

(A) Occurred in an accessible location, or accessible locations, in the vicinity of the real property; and

(B) Involved a discussion of the proposed redevelopment plan for real property.

(a-2) If the Council determines that the real property is no longer required for public purposes pursuant to subsection (a-1) of this section, the Mayor shall attempt to dispose of the real property for a use with a direct public benefit as described in a specific government plan adopted by the Mayor or Council, including the Community Development Plan, the Comprehensive Plan, the Strategic Neighborhood Area Plan, or the Comprehensive Housing Strategy Plan.

(b) The Mayor, to carry out the provisions of this subchapter, shall transmit to the Council a proposed resolution that contains the following:

(1) Repealed;

(2) The name and business address of the developer, and, if the developer is a joint venture or partnership, the name and business address of each person that constitutes the partnership;

(3) A description of the real property to be disposed of;

(4) A description of the intended use for the property ("Project");

(5) A description of any affordable housing to be provided as part of the Project;

(6) A finding that the Developer will enter into an agreement that shall require the Developer to, at a minimum, contract with Certified Business Enterprises for at least 35% of the contract dollar volume of the project, and

shall require at least 20% equity and 20% development participation of Certified Business Enterprises;

(7) A finding that the Developer will enter into a First Source Agreement with the District that shall govern certain obligations of Developer pursuant to § 2-219.03 and Mayor's Order 83-265 (November 9, 1983) regarding job creation and employment generated as a result of the construction on the Property;

(8) The proposed method of disposition, which may be one of the following:

(A) A public or private sale to the highest bidder;

(B) A negotiated sale to a for-profit or nonprofit entity for specifically designated purposes;

(C) A lease for a period of greater than 20 years;

(D) A combination sale/leaseback for specifically designated purposes;

(E) An exchange of interests in real property; or

(F) A public or private sale to the bidder providing the most benefit to the District; and

(9) The following statement:

"All documents that are submitted with this resolution pursuant to subsection (b-1) of this section shall be consistent with the executed Memorandum of Understanding or term sheet transmitted to the Council pursuant to subsection (b-1)(2) of this section."

(b-1) A proposed resolution to provide for the disposition of real property transmitted to the Council pursuant to subsection (b) of this section shall be accompanied by the following:

(1) An analysis prepared by the Mayor of the economic factors that were considered in proposing the disposition of the real property, including:

(A) The chosen method of disposition, and how competition was maximized;

(B) The manner in which economic factors were weighted and evaluated, including estimates of the monetary benefits and costs to the District that will result from the disposition. The benefits shall include revenues, fees, and other payments to the District, as well as the creation of jobs; and

(C) A description of all disposition methods considered and an accompanying narrative for the proposed disposition method that contains comparisons to the other methods and shows why the proposed method was more beneficial for the District than the others in the areas of return on investment, subsidies required, revenues paid to the District, and any other relevant category, or why it is being proposed despite it being less beneficial to the District in any of the measured categories.

(2) An executed term sheet or Memorandum of Understanding between the District and the selected developer that shall include the following:

(A) A description of the major business terms of the transaction;

(B) A description of the method of disposition;

(C) A description of the Certified Business Enterprise requirements;

(D) A description of the green building requirements;

(E) A description of the schedule of performance; and

(F) Any other terms that the Mayor finds to be in the best interest of the District.



(3) A document reporting the value of the property prepared by an independent appraiser or assessor performed within 12 months of transmission of the proposed resolution.

(4) For any development project where the total value of the government assistance is greater than \$10 million, a description of the project funding and financing plan.

(5)(A) For all District land being disposed for purposes of development and requiring government assistance the following additional items shall be transmitted to the Council concurrent with the proposed resolution and analysis:

(i) A Land Disposition Agreement between the District and the selected developer;

(ii) Any community benefits agreement between the developer and the relevant community, if any; and

(iii) A Certified Business Enterprise ("CBE") Agreement pursuant to subchapter IX-A of Chapter 2 of Title 2 [§ 2-218.01 et seq.].

(B) Documents in this paragraph shall be transmitted in the most current form available at the time the resolution is transmitted.

(C) All documents referenced in this paragraph shall be consistent with the proposed resolution for land disposition and language to that effect shall be included in those agreements prior to execution.

(6)(A) If a substantive change is made to the term sheet or Memorandum of Understanding referenced in subsection ((b-1)(2) of this section, after the resolution was transmitted to and approved by the Council pursuant to this subsection, a resolution describing the change accompanied by an amended term sheet or Memorandum of Understanding in redline format shall be transmitted to Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed amendments to the term sheet, in whole or in part, by resolution within the 30-day review period, the proposed amendments shall be deemed approved.

(B) For the purpose of this paragraph, the term:

(i) "Redline format" means the changes that are deletions have a line through them and the changes that are additions are underlined.

(ii) "Substantive change" means a change that makes the agreement inconsistent with the executed Memorandum of Understanding or term sheet transmitted with the proposed resolution.

(c) The proposed resolution to provide for the disposition of real property pursuant to subsection (b) of this section shall be submitted to the Council for a 90-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed disposition of the property, in whole or in part, by resolution within the 90-day period, the proposed resolution shall be deemed disapproved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 5 of Title 2.

(d) Approval of the disposition of the real property by the Council shall expire 2 years after the effective date of the resolution of approval. If the Mayor

determines prior to the end of the 2-year period that the property cannot be disposed of within the 2-year period, the Mayor may submit to the Council, no later than 60 days prior to the end of the 2-year period, a resolution seeking additional time for the disposition of the property, and shall include with the resolution a detailed status report on efforts made toward disposition of the property as well as the reasons for the inability to dispose of the property within the 2-year period. If the Council does not take action to approve or disapprove the resolution within 30 days of receipt of the resolution, not including Saturdays, Sundays, legal holidays, or days of Council recess, the resolution shall be deemed disapproved.

(d-1)(1) Notwithstanding subsection (d) of this section, the time period within which the Mayor may dispose of the property located at 2341 4th Street, N.E., pursuant to the Unsolicited Proposal Submitted by the H Street Community Development Corporation for the Acquisition and Development of 2341 4th Street, N.E., Resolution of 1999, deemed approved February 10, 2000 (PR13-436), is extended to February 10, 2004.

(2) This subsection shall apply as of February 10, 2000.

(d-2)(1) Notwithstanding subsection (d) of this section, the time period within which the Mayor may dispose of Square 5912, Lot 804 in Ward 8 in accordance with the Request for Proposals for the Disposition of Camp Simms Approval Resolution of 2000, effective December 5, 2000 (Res. 13-715; 47 DCR 9984), is extended to March 2, 2006.

(2) This subsection shall apply as of December 5, 2002.

(d-3)(1) Notwithstanding subsections (a) through (d) and (e) of this section, the Mayor may dispose of the following properties:

(A) Lots 106 and 803 in Square 442, in a manner not inconsistent with the Council's approval of the dispositions of these parcels pursuant to the Development of Small Parcels Resolution of 2006, deemed approved October 27, 2006 (Res. 16-849; 53 DCR 9376); and

(B) Lots 848 and 849 in Square 2906 in a manner not inconsistent with the Council's approval of the dispositions of these parcels pursuant to the Disposition of Lots 848 and 849 in Square 2906 Approval Resolution of 2005, deemed approved July 2, 2005 (Res. 16-280; 52 DCR 7961).

(2) The Mayor's authority to dispose of the properties listed in paragraph (1) of this subsection shall expire on November 5, 2009.

(d-4)(1) Notwithstanding subsections (a) through (d) and subsection (e) of this section, the Mayor shall dispose of the property located at 35-41 K Street, N.E., designated for tax and assessment purposes as Lot 0838 in Square 0675 ("K Street property"), through a solicitation to be issued no later than October 1, 2013; provided, that if the contingency set forth in paragraph (2)(B) of this subsection is met, the Mayor may dispose of the K Street property through a solicitation to be issued no later than October 1, 2013.

(2)(A) Except as provided in paragraph (3) of this subsection, the net proceeds from the disposition by sale, as authorized by subsection (b)(8) of this section, of the K Street property shall be deposited into the Housing Production Trust Fund, established by § 42-2802 ("HPTF"), unless the HPTF has been fully funded pursuant to subparagraph (B) of this paragraph and paragraph (3) of this subsection.



(B) If, before the K Street property disposition, the Chief Financial Officer certifies that there is revenue available to fund section 10002(a)(4) of the Revised Revenue Estimate Contingency Priority List Act of 2012, effective September 20, 2012 (D.C. Law 19-168; 59 DCR 8025) (“priority number 4”), the certified available revenue shall be deposited into the HPTF.

(3) If, after the K Street property disposition and the deposit of the net proceeds into the HPTF, the Chief Financial Officer certifies that there is revenue available to fund priority number 4, the certified available revenue, less any shortfall of the \$18 million provided for in priority number 4 that was not deposited into the HPTF, which shall be deposited into the HPTF, shall be available to fund NoMa in accordance with priority number 4.

(e) The Mayor shall incorporate into the terms of the disposition of real property disposed of through a negotiated sale pursuant to this section, the right of the District to reacquire the property at the price originally conveyed plus any amounts secured by the property that have been approved by the Mayor, if the property is no longer used for the authorized purpose. For property located within the corporate boundaries of the District, if the District does not exercise its reacquisition option, the owner in fee simple shall be entitled to use the property or sell, convey, or otherwise dispose of the property for use in a manner that is consistent with the designation of the real property on:

- (1) The Generalized Land Use Maps adopted pursuant to § 1-301.63; and
- (2) The Official Zoning Map of the District of Columbia adopted pursuant to § 6-641.01.

(e-1) In the case of any real property to be disposed under this section through a request for proposals or competitive sealed proposals, the Mayor shall include economic factors, including revenues, fees, and other payments to the District, as one of the criteria to evaluate the request for proposals or competitive sealed proposals.

(f) The Mayor shall take any steps necessary to ensure continuous community input in the disposition of any real property to be disposed of in accordance with this section, which shall include, for property located within the corporate boundaries of the District, providing notice to any affected Advisory Neighborhood Commission of the final terms and conditions for the sale of the property, for review and comment in accordance with § 1-309.10, prior to the disposition of the property.

(f-1) This section shall not apply to any real property which is acquired under § 42-3171.02.

(g) For real property that the Mayor has determined, after input from affected communities, to be no longer needed by the District of Columbia Public Schools (“DCPS”), the Mayor shall submit to the Council a report on whether the Mayor intends to dispose of the real property to a public charter school under § 38-1802.09 or for use by another agency of the District government. The report shall be submitted to the Council by the Mayor within 90 days of the determination that the real property is no longer needed by the DCPS. If the report is not submitted by the Mayor to the Council within the 90-day period, the Mayor shall dispose of the real property in accordance with



the provisions of this subchapter and shall transmit to the Council the resolutions required by subsection (a)(2) of this section within 180 days of the Mayor's determination.

(h) Notwithstanding any other provision of law, or any rule of law, the Board is authorized to sell and convey the property located at 13th and K Streets, N.W., Lot 808, Square 285, commonly referred to as the Franklin School ("Franklin") to the H Street Community Development Corporation ("H Street"), and to enter into and execute all agreements necessary to consummate this sale, provided that the Board and H Street have entered into a contract specifying that H Street shall resell and reconvey Franklin to the District of Columbia, for the use of the Board, for an amount equal to the price for which H Street purchased Franklin, once renovations have been completed and all of the Board's outstanding debts to H Street related to the renovation of Franklin have been discharged. The Board is further authorized and directed to enter into and execute all agreements necessary to consummate the repurchase of Franklin within 90 days of the completion of the renovations and the discharge of the Board's debts for said renovation.

(i) The Board is authorized to expend an amount not to exceed \$4 million for the renovation of Rabaut and 2 other schools for District of Columbia Public Schools administrative offices, excluding Franklin; provided, however, that if these renovation costs are likely to exceed \$4 million, the Board must come back to the Council for approval of additional expenditures of appropriated operating funds for these purposes.

(j) All District fees and taxes associated with the Board's sale and repurchase of Franklin, and H Street's ownership and renovation of Franklin, shall be waived.

(k) The contractor hired by the Board shall provide an opportunity for students from the District of Columbia Public Schools to participate in vocational training programs with employment opportunities with this renovation project.

(l) The Board shall not expend any appropriated funds to pay for restoration costs but shall use funds to renovate the building to meet minimum occupancy requirements.

(m) The provisions of this subchapter shall not apply to real property acquired by the District or an instrumentality of the District (or a subsidiary thereof) under § 47-1353(a)(3).

(Aug. 5, 1939, 53 Stat. 1211, ch. 449, § 1; Mar. 15, 1990, D.C. Law 8-96, § 3, 37 DCR 795; Sept. 11, 1990, D.C. Law 8-158, § 2(a), 37 DCR 4167; Mar. 16, 1995, D.C. Law 10-216, § 2 41 DCR 8038; Apr. 18, 1996, D.C. Law 11-110, § 21, 43 DCR 530; Apr. 19, 2002, D.C. Law 14-114, § 102, 49 DCR 1468; Oct. 19, 2002, D.C. Law 14-213, § 15(a), 49 DCR 8140; Apr. 4, 2003, D.C. Law 14-282, § 5, 50 DCR 896; Mar. 30, 2004, D.C. Law 15-127, § 2, 51 DCR 1549; Apr. 5, 2005, D.C. Law 15-285, § 2, 52 DCR 857; Apr. 13, 2005, D.C. Law 15-354, § 92, 52 DCR 2638; June 8, 2006, D.C. Law 16-112, § 2, 53 DCR 2536; Mar. 26, 2008, D.C. Law 17-138, § 704, 55 DCR 1689; Oct. 22, 2009, D.C. Law 18-76, § 2, 56 DCR 6895; Mar. 11, 2010, D.C. Law 18-115, § 2(a), 57 DCR 886;

July 27, 2010, D.C. Law 18-201, § 2, 57 DCR 4742; Sept. 20, 2012, D.C. Law 19-168, § 2132, 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 67, 59 DCR 6190.)

**Cross references.** — Advisory Neighborhood Commissions, duties and responsibilities, see § 1-309.10.

Authority of Council, exchange of district-owned land, see § 10-901.

Correctional Treatment Facility, exemptions from leasing and property laws, see § 24-261.05.

District of Columbia Alley Dwelling Act, rent, sale, or exchange of lands acquired thereunder, see § 6-101.01 et seq.

Industrial Home School, disposal, see § 44-1303.

Sale of lands not needed for public purposes, see § 16-1332 et seq.

**Section references.** — This section is referenced in § 2-351.05, § 2-1217.151, § 6-1005, § 10-851, § 10-901, § 10-1904, § 10-1905, § 16-1332, and § 24-261.05.

**Prior Codifications.** — 1981 Ed., § 9-401. 1973 Ed., § 9-301.

**Effect of amendments.** — D.C. Law 10-216 added subsecs. (h), (i), and (j).

D.C. Law 14-114 added subsec. (f-1).

D.C. Law 14-213, in subsec. (f-1), validated a previously made technical correction.

D.C. Law 14-282 added subsec. (m).

D.C. Law 15-127 added subsec. (d-1).

D.C. Law 15-285 added subsec. (d-2).

D.C. Law 15-354, in subsec. (d-1), validated a previously made technical correction.

D.C. Law 16-112, in subsec. (b), substituted “that contains a finding that the real property is no longer required for public purposes and a description” for “that contains a description”; added subsec. (b-1); in subsec. (c), substituted “shall be deemed disapproved.” for “shall be deemed approved.”; and added subsec. (e-1).

D.C. Law 17-138 added subsec. (d-3).

D.C. Law 18-76 rewrote subsecs. (b) and (b-1).

D.C. Law 18-115, in subsec. (a), designated the existing text as par. (1) and added par. (2); added subsecs. (a-1) and (a-2); repealed subsec. (b)(1); in subsec. (d), substituted “disapproved” for “approved”; in subsec. (e), substituted “pursuant to this section” for “pursuant to subsection (b)(2) of this section”; and rewrote subsec. (g).

D.C. Law 18-201 added subsec. (a-1)(5).

The 2012 amendment by D.C. Law 19-168 added (d-4).

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (b)(9).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section,

see § 2 of District of Columbia Board of Education Sale, Renovation, Lease-back, and Repurchase of Franklin School Temporary Amendment Act of 1994 (D.C. Law 10-196, March 14, 1995, law notification 42 DCR 1513).

For temporary (225 day) amendment of section, see § 3 of Extension of Time to Dispose of District Owned Surplus Real Property Revised Temporary Amendment Act of 1998 (D.C. Law 12-198, March 26, 1999, law notification 46 DCR 3424).

For temporary (225 day) amendment of section, see § 2 of Disposal of District Owned Surplus Real Property Temporary Amendment Act of 1998 (D.C. Law 12-223, April 13, 1999, law notification 46 DCR 3845).

For temporary (225 day) amendment of section, see § 2 of Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2000 (D.C. Law 13-242, April 3, 2001, law notification 48 DCR 3484).

For temporary (225 day) amendment of section, see § 2 of Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2001 (D.C. Law 14-71, February 27, 2002, law notification 49 DCR 2281).

For temporary (225 day) amendment of section, see § 5 of the Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, Oct. 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see § 5 of the Tax Clarity and Related Amendments Temporary Act of 2002 (D.C. Law 14-228, March 25, 2003, law notification 50 DCR 2741).

For temporary (225 day) amendment of section, see § 2 of Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2002 (D.C. Law 14-294, April 11, 2003, law notification 50 DCR 5852).

For temporary (225 day) amendment of section, see § 2 of Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2003 (D.C. Law 15-24, July 22, 2003, law notification 50 DCR 6094).

For temporary (225 day) amendment of section, see § 2 of Real Property Disposition Economic Analysis Temporary Amendment Act of 2004 (D.C. Law 15-137, April 22, 2004, law notification 51 DCR 4921).

For temporary (225 day) amendment of section, see § 2 of Disposal of District-Owned Surplus Real Property in Ward 8 Temporary Amendment Act of 2004 (D.C. Law 15-170, June 19, 2004, law notification 51 DCR 7335).

For temporary (225 day) amendment of section, see § 2 of Extension of Time to Dispose of



Property for Golden Rule Development Project Temporary Amendment Act of 2004 (D.C. Law 15-251, March 17, 2005, law notification 52 DCR 4127).

For temporary (225 day) amendment of section, see § 2 of Real Property Disposition Economic Analysis Second Temporary Amendment Act of 2004 (D.C. Law 15-313, April 8, 2005, law notification 52 DCR 4702).

For temporary (225 day) amendment of section, see § 5 of Abatement of Nuisance Construction Projects Temporary Amendment Act of 2005 (D.C. Law 16-4, May 14, 2005, law notification 52 DCR 5427).

For temporary (225 day) amendment of section, see § 2 of Real Property Disposition Economic Analysis Temporary Amendment Act of 2005 (D.C. Law 16-61, March 8, 2006, law notification 53 DCR 2332).

For temporary (225 day) amendment of section, see § 2 of School Without Walls Development Project Temporary Amendment Act of 2006 (D.C. Law 16-116, June 8, 2006, law notification 53 DCR 5354).

For temporary (225 day) amendment of section, see § 2 of School Without Walls Development Project Temporary Amendment Act of 2006 (D.C. Law 16-303, March 27, 2007, law notification 54 DCR 6574).

For temporary (225 day) amendment of section, see § 2 of Extension of Time to Dispose of the Old Congress Heights School Temporary Amendment Act of 2008 (D.C. Law 17-160, May 13, 2008, law notification 55 DCR 5894).

Section 2 of D.C. Law 18-77 rewrote subsecs. (b) and (b-1) to read as follows:

“(b) The Mayor, to carry out the provisions of this act, shall transmit to the Council a proposed resolution that contains the following:

“(1) A finding that the real property is no longer required for public purposes;

“(2) The name and business address of the developer, and, if the developer is a joint venture or partnership, the name and business address of each person that constitutes the partnership;

“(3) A description of the real property to be disposed of;

“(4) A description of the intended use for the property (‘Project’);

“(5) A description of any affordable housing to be provided as part of the Project;

“(6) A finding that the Developer will enter into an agreement that shall require the Developer to, at a minimum, contract with Certified Business Enterprises for at least 35% of the contract dollar volume of the project, and shall require at least 20% equity and 20% development participation of Certified Business Enterprises;

“(7) A finding that the Developer will enter into a First Source Agreement with the District that shall govern certain obligations of Devel-

oper pursuant to section 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), and Mayor’s Order 83-265 (November 9, 1983) regarding job creation and employment generated as a result of the construction on the Property;

“(8) The proposed method of disposition, which may be one of the following:

“(A) A public or private sale to the highest bidder;

“(B) A negotiated sale to a for-profit or non-profit entity for specifically designated purposes;

“(C) A lease for a period of greater than 20 years;

“(D) A combination sale/leaseback for specifically designated purposes;

“(E) An exchange of interests in real property; or

“(F) A public or private sale to the bidder providing the most benefit to the District; and

“(9) The following statement: “All documents that are submitted with this resolution pursuant to subsection (b-1) of this section shall be consistent with the executed Memorandum of Understanding or term sheet transmitted to the Council pursuant to subsection (b-1)(2) of this section.

“(b-1) A proposed resolution to provide for the disposition of real property transmitted to the Council pursuant to subsection (b) of this section shall be accompanied by the following:

“(1) An analysis prepared by the Mayor of the economic factors that were considered in proposing the disposition of the real property, including:

“(A) The chosen method of disposition, and how competition was maximized;

“(B) The manner in which economic factors were weighted and evaluated, including estimates of the monetary benefits and costs to the District that will result from the disposition. The benefits shall include revenues, fees, and other payments to the District, as well as the creation of jobs; and

“(C) A description of all disposition methods considered and an accompanying narrative for the proposed disposition method that contains comparisons to the other methods and shows why the proposed method was more beneficial for the District than the others in the areas of return on investment, subsidies required, revenues paid to the District, and any other relevant category, or why it is being proposed despite it being less beneficial to the District in any of the measured categories.

“(2) An executed term sheet or Memorandum of Understanding between the District and the selected developer that shall include the following:

“(A) A description of the major business terms of the transaction;



“(B) A description of the method of disposition;

“(C) A description of the Certified Business Enterprise requirements;

“(D) A description of the green building requirements;

“(E) A description of the schedule of performance; and

“(F) Any other terms that the Mayor finds to be in the best interest of the District.

“(3) A document reporting the value of the property prepared by an independent appraiser or assessor performed within 12 months of transmission of the proposed resolution.

“(4) For any development project where the total value of the government assistance is greater than \$10 million, a description of the project funding and financing plan.

“(5)(A) For all District land being disposed for purposes of development and requiring government assistance the following additional documents shall be transmitted to the Council concurrent with the proposed resolution and analysis:

“(i) A Land Disposition Agreement between the District and the selected developer;

“(ii) Any community benefits agreement between the developer and the relevant community, if any; and

“(iii) A Certified Business Enterprise (‘CBE’) Agreement pursuant to the Small, Local and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 et seq.).

“(B) Documents in this paragraph shall be transmitted in the most current form available at the time the resolution is transmitted.

“(C) All documents referenced in this paragraph shall be consistent with the proposed resolution for land disposition and language to that effect shall be included in those agreements prior to execution.

“(6)(A) If a substantive change is made to the term sheet or Memorandum of Understanding referenced in subsection ((b-1)(2) of this section, after the resolution was transmitted to and approved by the Council pursuant to this subsection, a resolution describing the change accompanied by an amended term sheet or Memorandum of Understanding in redline format shall be transmitted to Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed amendments to the term sheet, in whole or in part, by resolution within the 30-day review period, the proposed amendments shall be deemed approved.

“(B) For the purposes of this paragraph, the term:

“(i) ‘Redline format’ means the changes that are deletions have a line through them and the changes that are additions are underlined.

“(ii) ‘Substantive change’ means a change that makes the agreement inconsistent with the executed Memorandum of Understanding or term sheet transmitted with the proposed resolution.”

Section 4(b) of D.C. Law 18-77 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 18-204 added subsec. (a-1)(6) to read as follows:

“(6) The Mayor is deemed to have met the requirements of paragraph (2)(C) and paragraph (4) of this subsection with respect to the District-owned real property known as the Old Naval Hospital, located at 921 Pennsylvania Avenue, S.E., in Square 0948, for which the Mayor engaged in community outreach efforts regarding the property’s proposed redevelopment plan, and which followed notice to and consent from the applicable Advisory Neighborhood Commission.”

Section 4(b) of D.C. Law 18-204 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 18-276 added subsec. (c-1) to read as follows:

“(c-1) Notwithstanding subsection (c) of this section, the Council review period for the proposed disposition of the property located at 44 P Street, N.W., commonly known as J.F. Cook School, and designated for purposes of assessment and taxation as Square 0616, Lot 0866, or some portion thereof, is extended for an additional 90 days, excluding Saturdays, Sundays, legal holiday, and days of Council recess.”

Section 4(b) of D.C. Law 18-276 provided that the act shall expire after 225 days of its having taken effect.

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 2 of Fringe Lot Real Property Exclusive Rights Agreement Extension Temporary Amendment Act of 2006 (D.C. Law 16-164, September 29, 2006, law notification 53 DCR 8600).

Sections 2 and 3 of D.C. Law 17-283 added provisions to read as follows:

“Sec. 2. Definitions.

“For the purposes of this act, the term:

“(1) ‘Low barrier shelter’ means an overnight housing accommodation for individuals who are homeless, provided directly by, or through contract with or grant from, the District, for the purpose of providing shelter to individuals without imposition of identification, time limits, or other program requirements.

“(2) ‘Supportive-housing unit’ means housing provided in connection with voluntary services designed primarily to help tenants maintain housing, including coordination or case management, physical and mental health, substance use management and recovery support, job training, literacy and education, youth and children’s programs, and money management.”

"Sec. 3. (a) Prior to the closing of the Franklin Shelter, located at 925 13th Street, N.W., the Mayor shall certify to the Council that no fewer than 300 men have been placed in supportive-housing units and submit the certification to the Council along with a report on the proposed Franklin Shelter closing that includes:

"(1) A description of the supportive-housing placements, including:

"(A) For each client who has been placed in a supportive-housing unit since August 1, 2008, the:

"(i) Client's name and supportive-housing address;

"(ii) Date the client was placed in the unit;

"(iii) Name and address of the shelter from which the client relocated; and

"(iv) Supportive services being provided to complement housing;

"(B) The percentage of a shelter's clients that were placed in supportive-housing units;

"(2) A description of the current capacity, current availability, and location of replacement-shelter space;

"(3) The number of men using low barrier shelters each month during the current fiscal year and the prior fiscal year;

"(4) Analysis of the impact, if any, that closing the Franklin Shelter may have on the homeless population, including any risk of increased cases of hypothermia during winter months resulting from any reduced capacity in the emergency shelter system;

"(5) Any expected increase or decrease in the need for low barrier shelter space generally and, specifically, during the winter months, when the temperature is at or below 32 degrees Fahrenheit; and

"(6) A description of the ability to seasonally increase capacity to reduce incidences of hypothermia among the homeless population.

"(b) Except as provided for in subsection (a) of this section, the Mayor shall continue to operate the Franklin Shelter as a 300-person low barrier shelter."

Section 5(b) of D.C. Law 17-283 provided that the act shall expire after 225 days of its having taken effect.

**Temporary Amendment of Section.** — Section 2 of D.C. Law 19-215 added subsection (d-5) to read as follows:

"(d-5) Notwithstanding subsection (d) of this section, the time period within which the Mayor may dispose of the property located at 400-414 Eastern Avenue, N.E., and in the 6100 block of Dix Street, N.E., known for tax and assessment purposes as Lots 17, 18, 19, and 806 in Square 5260, for which disposition was approved by the Council pursuant to the Eastern Avenue Property Disposition Approval Resolution of 2009, effective October 6, 2009 (Res. 18-0264; 56 DCR 8412), and extended by the Eastern Avenue Property Disposition Extension Approval Resolution of 2011, effective September 20, 2011 (Res. 19- 245; 58 DCR 8475), is extended to October 6, 2013."

Section 4(b) of D.C. Law 19-215 provided that the act shall expire after 225 days of its having taken effect.

**Temporary Amendment of Section.** — Section 2 of D.C. Law 19-216 added subsection (d-6) to read as follows:

"(d-6) Notwithstanding subsection (d) of this section, the time period within which the Mayor may dispose of the property located at 5131 Nannie Helen Burroughs Avenue, N.E., known as the Strand Theater, for which disposition was approved by the Council pursuant to the Strand Theater Disposition Approval Resolution of 2009, effective October 6, 2009 (Res. 18-0263; 56 DCR 8410), and extended by the Strand Theater Disposition Extension Approval Resolution of 2011, effective September 20, 2011 (Res. 19- 246; 58 DCR 8477), is extended to October 6, 2013."

Section 4(b) of D.C. Law 19-216 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary designation of the building and all property in Square 255, located at 1350 Pennsylvania Avenue, N.W., popularly referred to as the District Building, under the exclusive authority of the Council of the District of Columbia to determine the use, management, maintenance, operation, repair, renovation, security, lease, sale, or other disposition of the building and property, see § 701 of the Omnibus Spending Reduction Emergency Act of 1993 (D.C. Act 10-102, August 9, 1993, 40 DCR 6144) and § 601 of the Omnibus Spending Reduction Congressional Review Emergency Act of 1993 (D.C. Act 10-145, November 4, 1993, 40 DCR 8081).

For temporary amendment of section, see § 2 of the District of Columbia Board of Education Sale, Renovation, Lease-back, and Repurchase of Franklin School Emergency Amendment Act of 1994 (D.C. Act 10-321, August 4, 1994, 41 DCR 5371) and § 2 of the District of Columbia Board of Education Sale, Renovation, Lease-back, and Repurchase of Franklin School Congressional Adjournment Emergency Amendment Act of 1994 (D.C. Act 10-362, December 15, 1994, 41 DCR 8057).

For temporary amendment of section, see §§ 2(a) and 3 of the Extension of Time to Dispose of District Owned Surplus Real Property Revised Emergency Amendment Act of 1998 (D.C. Act 12-441, September 3, 1998, 45 DCR 6515).

For temporary (90-day) amendment of section, see § 2 of the Disposal of District Owned Surplus Real Property Emergency Amendment Act of 1999 (D.C. Act 13-208, December 8, 1999, 46 DCR 10474).



For temporary (90-day) amendment of section, see § 2 of the Disposal of District Owned Surplus Real Property Congressional Review Emergency Amendment Act of 2000 (D.C. Act 13-281, March 7, 2000, 47 DCR 2024).

For temporary (90 day) amendment of section, see § 2 of the Disposal of District Owned Surplus Real Property Emergency Amendment Act of 2000 (D.C. Act 13-476, December 8, 2000, 48 DCR 560).

For temporary (90 day) amendment of section, see § 2 of Disposal of District Owned Surplus Real Property Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-10, March 2, 2001, 48 DCR 2494).

For temporary (90 day) amendment of section, see § 2 of Master Facility Plan Requirement Emergency Amendment Act of 2001 (D.C. Act 14-34, April 2, 2001, 48 DCR 3351).

For temporary (90 day) amendment of section, see § 2 of Master Facility Plan Requirement Temporary Amendment Act of 2001 (D.C. Act 14-50, April 19, 2001, 48 DCR 3351).

For temporary (90 day) amendment of section, see § 2 of Disposal of District Owned Surplus Real Property Emergency Amendment Act of 2001 (D.C. Act 14-159, November 2, 2001, 48 DCR 10393).

For temporary (90 day) amendment of section, see § 5 of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) addition of provisions, see §§ 2 to 12 of Abandoned and Vacant Properties Community Development Disposition, and Disapproval of Disposition of Certain Scattered Vacant and Abandoned Properties Emergency Act of 2002 (D.C. Act 14-396, June 25, 2002, 49 DCR 6502).

For temporary (90 day) amendment of section, see § 5 of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) addition of provisions, see §§ 1 to 12 of Abandoned and Vacant Properties Community Development Disposition, and Disapproval of Disposition of Certain Scattered Vacant and Abandoned Properties Congressional Review Emergency Act of 2002 (D.C. Act 14-484, October 3, 2002, 49 DCR 9624).

For temporary (90 day) amendment of section, see § 5 of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

For temporary (90 day) amendment of section, see § 2 of Disposal of District Owned Surplus Real Property Emergency Amendment Act of 2002 (D.C. Act 14-534, December 2, 2002, 49 DCR 11643).

For temporary (90 day) amendment of section, see § 2 of Disposal of District Owned

Surplus Real Property Emergency Amendment Act of 2003 (D.C. Act 15-77, April 16, 2003, 50 DCR 3640).

For temporary (90 day) amendment of section, see § 2 of Real Property Disposition Economic Analysis Emergency Amendment Act of 2004 (D.C. Act 15-339, January 29, 2004, 51 DCR 1818).

For temporary (90 day) amendment of section, see § 2 of Disposal of District-Owned Surplus Real Property in Ward 8 Emergency Amendment Act of 2004 (D.C. Act 15-406, March 18, 2004, 51 DCR 3657).

For temporary (90 day) amendment of section, see § 2 of Disposal of District-owned Surplus Real Property in Ward 8 Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-449, June 23, 2004, 51 DCR 6568).

For temporary (90 day) amendment of section, see § 2 of Extension of Time to Dispose of Property for Golden Rule Development Project Emergency Act of 2004 (D.C. Act 15-588, November 1, 2004, 51 DCR 10714).

For temporary (90 day) amendment of section, see § 2 of Real Property Disposition Economic Analysis Second Emergency Amendment Act of 2004 (D.C. Act 15-627, November 30, 2004, 52 DCR 1137).

For temporary (90 day) amendment of section, see § 2 of Disposal of District-Owned Surplus Real Property in Ward 8 Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-7, January 19, 2005, 52 DCR 2686).

For temporary (90 day) amendment of section, see § 2 of Real Property Disposition Economic Analysis Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-33, February 17, 2005, 52 DCR 3018).

For temporary (90 day) amendment of section, see § 2 of Extension of Time to Dispose of Property for Golden Rule Development Project Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-37, February 17, 2005, 52 DCR 3028).

For temporary (90 day) amendment of section, see § 2 of Real Property Disposition Economic Analysis Emergency Amendment Act of 2005 (D.C. Act 16-202, November 17, 2005, 52 DCR 10511).

For temporary (90 day) amendment of section, see § 2 of School Without Walls Development Project Emergency Amendment Act of 2006 (D.C. Act 16-285, February 27, 2006, 53 DCR 1637).

For temporary (90 day) amendment of section, see § 2 of School Without Walls Development Project Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-373, May 19, 2006, 53 DCR 4386).

For temporary (90 day) re-authorization of agreement provisions, see § 2 of Fringe Lot Real Property Exclusive Rights Agreement



Emergency Amendment Act of 2006 (D.C. Act 16-412, July 12, 2006, 53 DCR 5774).

For temporary (90 day) amendment of section, see § 2 of School Without Walls Development Project Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-673, December 28, 2006, 54 DCR 1163).

For temporary (90 day) amendment of section, see § 2 of Extension of Time to Dispose of the Old Congress Heights School Emergency Amendment Act of 2008 (D.C. Act 17-303, February 22, 2008, 55 DCR 2512).

For temporary (90 day) additions, see §§ 2 and 3 of Franklin Shelter Closing Requirements Emergency Act of 2008 (D.C. Act 17-518, September 30, 2008, 55 DCR 10898).

For temporary (90 day) amendment of section, see § 2 of District Land Disposition Emergency Amendment Act of 2009 (D.C. Act 18-140, July 16, 2009, 56 DCR 5864).

For temporary (90 day) amendment of section, see § 2 of District Land Disposition Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-209, October 21, 2009, 56 DCR 8483).

For temporary (90 day) additions, see §§ 2 and 3 of Washington Center for Aging Services Disposition Approval Emergency Act of 2010 (D.C. Act 18-363, April 2, 2010, 57 DCR 3161).

For temporary (90 day) amendment of section, see § 2 of Old Naval Hospital Community Obligation Requirements Emergency Amendment Act of 2010 (D.C. Act 18-399, May 5, 2010, 57 DCR 4365).

For temporary (90 day) amendment of section, see § 2 of Extension of Review Period for the Proposed Disposition of the J.F. Cook School Emergency Amendment Act of 2010 (D.C. Act 18-509, July 30, 2010, 57 DCR 7588).

For temporary (90 day) amendment of section, see § 2 of Extension of Review Period for the Proposed Disposition of the J.F. Cook School Congressional Review Emergency Amendment Act of 2010 (D.C. Act 18-576, October 19, 2010, 57 DCR 10105).

For temporary (90 day) amendment of section, see § 2 of Howard Theatre Easement Disposition Emergency Amendment Act of 2012 (D.C. Act 19-267, January 15, 2012, 59 DCR 209).

For temporary (90 day) amendment of section, see § 2132 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 2132 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary addition of (d-5), see § 2 of the Extension of Time to Dispose of the Eastern Avenue Property Emergency Amendment Act of

2012 (D.C. Act 19-456, October 4, 2012, 59 DCR 11746).

For temporary addition of (d-6), see § 2 of the Extension of Time to Dispose of the Eastern Avenue Property Emergency Amendment Act of 2012 (D.C. Act 19-457, October 4, 2012, 59 DCR 11748).

For temporary addition of (d-5), see § 2 of the Extension of Time to Dispose of the Eastern Avenue Property Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-10, February 20, 2013, 60 DCR 3956, applicable as of January 2, 2013).

For temporary addition of (d-6), see § 2 of the Extension of Time to Dispose of the Strand Theater Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-11, February 20, 2013, 60 DCR 3958), applicable as of January 2, 2013.

**Legislative history of Law 8-96.** — For legislative history of D.C. Law 8-96, see Historical and Statutory Notes following § 8-801.1.

**Legislative history of Law 8-158.** — Law 8-158, the “Board of Education Real Property Disposal Act of 1990,” was introduced in Council and assigned Bill No. 8-383, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on May 15, 1990, and May 29, 1990, respectively. Signed by the Mayor on June 18, 1990, it was assigned Act No. 8-220 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 10-216.** — Law 10-216, the “District of Columbia Board of Education Sale, Renovation, Lease-back, and Repurchase of Franklin School Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-718, which was referred to the Committee on Education and Libraries. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 15, 1994, it was assigned Act No. 10-353 and transmitted to both Houses of Congress for its review. D.C. Law 10-216 became effective on March 16, 1995.

**Legislative history of Law 11-110.** — Law 11-110, the “Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

**Legislative history of Law 14-114.** — Law 14-114, the “Housing Act of 2002,” was introduced in Council and assigned Bill No. 14-183, which was referred to the Committee on Finance and Revenue. The Bill was adopted on

first and second readings on December 4, 2001, and January 8, 2002, respectively. Signed by the Mayor on February 6, 2002, it was assigned Act No. 14-267 and transmitted to both Houses of Congress for its review. D.C. Law 14-114 became effective on April 19, 2002.

**Legislative history of Law 14-213.** — Law 14-213, the “Technical Amendments Act of 2002”, was introduced in Council and assigned Bill No. 14-671, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 4, 2002, and July 2, 2002, respectively. Signed by the Mayor on July 26, 2002, it was assigned Act No. 14-459 and transmitted to both Houses of Congress for its review. D.C. Law 14-213 became effective on October 19, 2002.

**Legislative history of Law 14-282.** — Law 14-282, the “Tax Clarity and Recorder of Deeds Act of 2002”, was introduced in Council and assigned Bill No. 14-537, which was referred to Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 2, 2002, and October 1, 2002, respectively. Signed by the Mayor on January 22, 2003, it was assigned Act No. 14-616 and transmitted to both Houses of Congress for its review. D.C. Law 14-282 became effective on April 4, 2003.

**Legislative history of Law 15-127.** — Law 15-127, the “Extension of the Time Period for the Disposition of a Property Located at 2341 4th Street, N.E., Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-242, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 2, 2003, and January 6, 2004, respectively. Signed by the Mayor on January 28, 2004, it was assigned Act No. 15-314 and transmitted to both Houses of Congress for its review. D.C. Law 15-127 became effective on March 30, 2004.

**Legislative history of Law 15-285.** — Law 15-285, the “Disposal of District-Owned Surplus Real Property in Ward 8 Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-748, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-678 and transmitted to both Houses of Congress for its review. D.C. Law 15-285 became effective on April 5, 2005.

**Legislative history of Law 15-354.** — Law 15-354, the “Technical Amendments Act of 2004”, was introduced in Council and assigned Bill No. 15-1130 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on February 9, 2005, it

was assigned Act No. 15-770 and transmitted to both Houses of Congress for its review. D.C. Law 15-354 became effective on April 13, 2005.

**Legislative history of Law 16-112.** — Law 16-112, the “Real Property Disposition Economic Analysis Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-479 which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on February 7, 2006, and March 7, 2006, respectively. Signed by the Mayor on March 23, 2006, it was assigned Act No. 16-314 and transmitted to both Houses of Congress for its review. D.C. Law 16-112 became effective on June 8, 2006.

**Legislative history of Law 17-138.** — Law 17-138, the “National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008”, was introduced in Council and assigned Bill No. 17-340 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-289 and transmitted to both Houses of Congress for its review. D.C. Law 17-138 became effective on March 26, 2008.

**Legislative history of Law 18-76.** — Law 18-76, the “District Land Disposition Amendment Act of 2009”, as introduced in Council and assigned Bill No. 18-205, which was referred to the Committee on Economic Development. The bill was adopted on first and second readings on June 30, 2009, and July 14, 2009, respectively. Signed by the Mayor on August 3, 2009, it was assigned Act No. 18-179 and transmitted to both Houses of Congress for its review. D.C. Law 18-76 became effective on October 22, 2009.

**Legislative history of Law 18-115.** — Law 18-115, the “Public Land Surplus Standards Amendment Act of 2009”, was introduced in Council and assigned Bill No. 18-76, which was referred to the Committee on Government Operations and the Environment. The bill was adopted on first and second readings on December 1, 2009, and December 15, 2009, respectively. Approved without the signature of the Mayor on January 14, 2010, it was assigned Act No. 18-263 and transmitted to both Houses of Congress for its review. D.C. Law 18-115 became effective on March 11, 2010.

**Legislative history of Law 18-201.** — Law 18-201, the “Master Public Facilities Plan Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-592, which was referred to the Committee on Government Operations and the Environment. The Bill was adopted on first and second readings on April 20, 2010, and May 4, 2010, respectively. Signed by the Mayor on May 21, 2010, it was assigned



Act No. 18-413 and transmitted to both Houses of Congress for its review. D.C. Law 18-201 became effective on July 27, 2010.

**Legislative history of Law 19-168.** — Law 19-168, the “Fiscal Year 2013 Budget Support Act of 2012,” was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

**References in text.** — A description of the Generalized Land Use Maps adopted pursuant to § 1-306.02, referred to in (e)(1), is located at 10 DCMR § 1135 (March 1989).

**Transfer of Functions.** — The functions, powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of June 6, 1924, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-94 “Conveyance of Real Property Act of 1984”, see Mayor’s Order 88-123, May 16,

**Resolutions.** — Resolution 14-71, the “Negotiated Sale of District-Owned Property at Brentwood Road, N.E. to Graimark/Walker Urban Land Development, LLC Approval Resolution of 2001”, was approved effective April 3, 2001.

Resolution 14-96, the “Negotiated Sale of District-Owned Property at First Street and New York Avenue, N.E., to the General Services Administration/Bureau of Alcohol, Tobacco and Firearms Approval Resolution of 2001, was approved effective May 1, 2001.

Resolution 14-429, the “Disposition of Squares 5155, Lots 11-14, 150-152, 835, 838, 839, 849, 851 and 853, also known as the George Carver Elementary School, Emergency Approval Resolution of 2002”, was approved effective April 16, 2002.

Resolution 14-429, the “Disposition of Square 5155, Lots 11-14, 150-152, 835, 838, 839, 849, 851 & 853, Also Known as the George Carver Elementary School Emergency Approval Resolution of 2002”, was approved effective April 26, 2002.

Resolution 14-440, the “Request for Proposals for the Disposition of the Washington Beef Properties, 1240 — 1248 4th St., N.E., Lots 5, 800, and 802 in Square 3587, Approval Resolution of 2002”, was approved effective May 24, 2002.

Resolution 14-539, the “Disposition of the Existing Convention Center Site Emergency Approval Resolution of 2002”, was approved effective July 26, 2002.

Resolution 14-620, the “Disposition of Square 5155, Lot 802 Emergency Approval Resolution of 2002”, was approved effective November 22, 2002.

Resolution 15-64, the “Disposition of Square 1030, Lot 813, also known as the Kingsman Elementary School Approval Resolution of 2003”, was approved effective March 18, 2003.

Resolution 15-128, the “Transfer of Easement for Vehicular and Pedestrian Access to 115 New York Avenue, N.W., Approval Resolution of 2003”, was approved effective July 8, 2003.

Resolution 15-142, the “Disposition by a Request for Proposals for the Disposition of the Georgia Avenue—Petworth Metro Station Parcel a Site Approval Resolution of 2003”, was approved effective July 8, 2003.

Resolution 15-202, the “Revised Lease of a Parcel of District Property Held under a Letter Transfer at U.S. Reservation 13 to St. Coletta of Greater Washington, Inc. Emergency Approval Resolution of 2003”, was approved effective July 8, 2003.

Resolution 15-214, the “Unsolicited Proposal Submitted by Sang Oh & Company for the Negotiated Purchase and Disposition of Surplus Property at 375 Morse Street, N.E., Also Known as the Ironworks Parcel, Emergency Approval Resolution of 2003”, was approved effective July 8, 2003.

Resolution 15-218, the “Disposition of Square 5359, Lots 307 and 827, Also Known as the Hilltop Terrace Property Emergency Approval Resolution of 2003”, was approved effective July 14, 2003.

Resolution 15-346, the “Declaration of Square E-710, Lot 801 as Surplus Property Resolution of 2003”, was approved effective December 2, 2003.

Resolution 15-142, the “Request for Proposals for the Disposition of the Georgia Avenue—Petworth Metro Station Parcel A Approval Resolution of 2003”, was approved effective July 8, 2003.

Resolution 15-522, the “Request for Proposals for the Disposition of 201 Florida Avenue, N.E., Square E-710, Lot 801, Approval Resolution of 2004”, was approved effective May 4, 2004.

Resolution 15-523, the “Disposition of the Armstrong Adult Education Center, Square 553, Lot 844, Approval Resolution of 2004”, was approved effective May 4, 2004.



Resolution 15-645, the "Disposition of Certain Vacant Land That Is a Portion of the Area Known as the Anacostia Northern Gateway Site Approval Resolution of 2004", was approved effective July 13, 2004.

Resolution 15-649, the "Disposition of Nichols Avenue School Emergency Approval Resolution of 2004", was approved effective July

**Editor's notes.** — Sale, lease or transfer of certain United States property in District to foreign governments and international organization: See Act of October 8, 1968, Pub. L. 90-553, as amended by Act of May 25, 1982, Pub. L. 97-186, as amended by § 124 of the Act of August 16, 1985, Pub. L. 99-93, as amended by § 120 of the Act of February 16, 1990, Pub. L. 101-246.

Conveyance of property: Pursuant to authority of this section, the Act of March 16, 1978, D.C. Law 2-63, conveying square 491 to the Pennsylvania Avenue Development Corporation, was adopted.

D.C. Law 7-94, effective March 16, 1988, authorized the Mayor to convey property located at 525-9th Street, N.E., Lots 32, 33, and 34 of Square 936, commonly referred to as Old Police Precinct #9.

D.C. Law 8-32, effective September 22, 1989, as amended by D.C. Act 8-97, effective October 17, 1989, as amended by D.C. Law 8-171, effective September 26, 1990, authorized the Mayor to convey property located at 1529 16th Street, N.W., Lot 818 of Square 194, commonly referred to as the Jewish Community Center.

D.C. Law 8-82, effective March 15, 1990, authorized the Mayor to convey property located at Lot 13 in Square 4446.

D.C. Law 10-139, effective July 23, 1994, authorized the Mayor to convey property located at 2025 2nd Street, N.W., commonly referred to as the Gage School.

Approval of Prevocational School Site: Pursuant to Resolution 8-291, the "Prevocational School Site Lease Approval Resolution of 1990", effective November 30, 1990, the Council approved the request by the Mayor to lease the Prevocational School Site for a period not to exceed 99 years.

Disapproval of request to lease Employment Services Building: Pursuant to Resolution 8-292, the "Employment Services Building Lease Disapproval Resolution of 1990," effective November 30, 1990, the Council disapproved the request by the Mayor to lease the Employment Services Building Site for a period not to exceed 99 years.

Precinct Station Site Lease Approval Resolution of 1991: Pursuant to Resolution 9-146, effective December 13, 1991, the Council approved the request by the Mayor to lease the Old Number 8 Precinct Station (Lot 804; Square 1730) to Iona Senior Services for a period of greater than 20 years.

Proposal to Develop 10 Lots Located at Benning Road, S.E., Lots 309 through 318, Square 5359 Resolution of 1992: Pursuant to Resolution 9-264, effective June 12, 1992, the Council reviewed and approved an unsolicited proposal to develop 10 lots located at Benning Road between Hanna Place and H Street, S.E., Lots 309 through 319, Square 5359.

Lease of the Employment Services Building Site Disapproval Resolution of 1993: Pursuant to Resolution 10-62, effective June 11, 1993, the Council disapproved the lease of the Employment Services Building site for a period of up to 99 years.

Children's Island Disposition Resolution of 1993: Pursuant to Resolution 10-92, effective July 30, 1993, the Council authorized conditionally the disposition of property in the Anacostia River known as Children's Island, upon the approval by the Council of the District of Columbia of a transfer of jurisdiction over the property from the National Park Service to the District of Columbia, pursuant to a Lease and Restated Cooperative Agreement between the District of Columbia and National Children's Island, Inc. and Island Development Corporation, and subject to compliance with the provisions of the Children's Island Development Plan Emergency Act of 1993 and successor permanent legislation.

Unsolicited Proposal Submitted by Washington Properties, Inc./Square 673 Partners for the Negotiated Disposition of 59 M Street, N.E., Resolution of 1994: Pursuant to Resolution 10-475, effective December 6, 1994, amended by D.C. Law 16-191, § 110, the Council reviewed and provided comments on an Unsolicited Proposal submitted by Washington Properties, Inc./Square 673 Partners for the negotiated disposition of 59 M Street, N.E.

Conveyance of property: D.C. Law 10-96 authorized the Mayor to convey certain real property of the District of Columbia known as Engine Company No. 24, located on Lot 816, Square 2900, with a street address at 3702 Georgia Avenue N.W., to the Washington Metropolitan Area Transit Authority for the purpose of constructing the Georgia Avenue/Petworth Station facilities.

Disposal of surplus real property: Section 2 of D.C. Law 8-96 provided that for the purposes of this act, the term "real property" means land titled in the name of the District of Columbia ("District") or in which the District has a controlling interest and includes all structures of a permanent character erected thereon or affixed thereto, any natural resources located thereon or thereunder, all riparian rights attached thereto, or any air space located above or below the property or any street or alley under the jurisdiction of the Mayor.

Authority over the John A. Wilson Building: Section 601 of D.C. Law 10-65, provided, inter

alia, that notwithstanding the provisions of this chapter, the John A. Wilson Building is designated under the exclusive authority of the Council of the District of Columbia to determine the use, management, maintenance, operation, repair, renovation, security, lease, sale, or other disposition of the property pursuant to § 10-1301.

Oyster Elementary School Construction and Revenue Bonds: D.C. Law 12-174, the Oyster Elementary School Construction and Revenue Bond Act of 1998, effective October 21, 1998, pursuant to § 169 of Pub. Law. 105-277, authorized the demolition of the James F. Oyster Elementary School and the construction of a new school, the lease or conveyance of a portion of the Oyster School site to a private developer, and the funding for construction of the new Oyster School facility through the issuance of revenue bonds by the District for the benefit of the District of Columbia Public Schools, with the payments on such revenue bonds secured through payment by the developer of a payment in lieu of taxes.

Glenn Dale Hospital Site Sale Approval Resolution of 1994: Pursuant to Proposed Resolution 11-17, deemed approved January 7, 1995, Council approved the sale of the Glenn Dale Hospital Site.

Transfer of Lot 40 in Square 454 Emergency Approval Resolution of 1995: Pursuant to Resolution 11-150, effective October 10, 1995, the Council approved the transfer of certain real property owned by the District of Columbia Government, further described as Lot 40 in Square 454, a portion of which to be transferred to the District of Columbia Redevelopment Land Agency and the remaining portion to be used or disposed of in accordance with District of Columbia law.

Request for Proposals to Solicit Development of the Georgetown Incinerator Property, Lot 824 in Square 1189, Approval Emergency Resolution of 1996: Pursuant to Resolution 11-478, effective July 17, 1996, Council approved, on an emergency basis, the request for proposals soliciting proposals to develop the Georgetown Incinerator Property located in the Georgetown Waterfront area and legally described as Lot 824, Square 1189.

Approval of the Negotiated Disposition of the "Golden Rule Property" to Golden Rule Plaza, Inc., and Reorganization Plan No. 8 of 1996 for the Business of Public Management Disapproval Resolution of 1996: Pursuant to Resolution 11-569, effective November 7, 1996, Council approved a negotiated disposition and redevelopment of the "Golden Rule Property" to Golden Rule Plaza, Inc., and to disapprove Reorganization Plan No. 8 of 1996 for the business of public management.

Negotiated Disposition of Property Located at 1301 Upshur Street, N.W., to the National

Baptist Convention USA Housing Inc., Twenty-Seven, Approval Resolution of 1996: Pursuant to Resolution 11-632, effective December 3, 1996, Council approved the negotiated disposition of property located in Square 2820, Lot 1, at 1301 Upshur Street, N.W., to the National Baptist Convention USA Housing Inc., Twenty-Seven, for the development of the "Upshur House" in Ward Four.

Request for Offers for the Disposition for the Roosevelt Apartment for Senior Citizens, 2101 16th Street, N.W., Lot 802, in Square 188, Approval Resolution of 1996: Pursuant to Resolution 11-633, effective December 3, 1996, Council approved the Request for Offers for the disposition of the Roosevelt Apartment for Senior Citizens located at 2101 16th Street, N.W., and legally described as Lot 802, Square 188, in Ward 1.

Unsolicited Proposal to Develop the Anacostia Northern Gateway Project Approval Resolution of 1997: Proposed Resolution 12-0111, the "Unsolicited Proposal to Develop the Anacostia Northern gateway project Approval Resolution of 1997" was deemed approved, effective Feb. 12, 1997.

Extension of Time To Dispose of Square 4107, Lots 227 and 900 and Square 4103, Lots 826 and 827 to Crane Rental Company Approval Resolution of 1998: Pursuant to Resolution 12-(PR12-721), effective May 29, 1998, the Council approved a request for additional time for the disposition of property on W Street, N.E., Square 4107, Lots 227 and 900 and Square 4103, Lots 826 and 827, to Crane Rental Company.

Disposition of Lots 90, 91, 92, 105, 106 and 125 in Square 2560 to Adams Morgan Development Company Limited Partnership Approval Resolution of 1998: Pursuant to Resolution 12-703, effective October 6, 1998, the Council approved the disposition of Lots 90, 91, 92, 105, 106 and 125 in Square 2560 to Adams Morgan Development Company Limited Partnership.

Disposition of Lot 824 in Square 1189 to Millennium Georgetown Development L.L.C. Approval Resolution of 1998: Pursuant to Resolution 12-704, effective October 6, 1998, the Council approved the disposition of Lot 824 in Square 1189 to Millennium Georgetown Development L.L.C.

Authorization to Sell Lots 804, 805 and 806 in Square 3587 Approval Resolution of 1998: Pursuant to Resolution PR 12-824, effective December 10, 1998, the Council authorized the sale of Lots 804, 805, and 806 in Square 3587 to existing tenants.

Disposition of Lot 41 in Square 484 Emergency Conditional Approval Resolution of 1998: Pursuant to Resolution 12-677, effective August 24, 1998, the Council approved, on an emergency basis, the disposition of Lot 41 in



Square 454, located at 614 H Street, N.W., as surplus property.

Disposition of Lot 0061 in Square 555 Emergency Approval Resolution of 1998: Pursuant to Resolution 12-800, effective December 1, 1998, the Council approved, on an emergency basis, the disposition of Lot 0061 in Square 555, real property owned by the District government, as surplus property in accordance with District of Columbia law.

Public Offering Document to Receive Proposals to Develop the McMillan Sand Filter Plant Site Disapproval Resolution of 1998 (PR12-981): Pursuant to Resolution 13-31, effective February 2, 1999, the Council disapproved an offering document to receive proposals to develop the McMillan Sand Filter Plant Site, located in Ward 5.

Request for Offers for the Disposition of the Roosevelt Apartment, 2101 — 16th Street, N.W., Lot 802 in Square 188, Approval Resolution of 1999 (PR12-1115): Pursuant to Resolution 13-32, effective February 2, 1999, the Council reviewed and approved the Request for Offers for disposition of the Roosevelt Apartment, located at 2101 16th Street, N.W., and legally described as Lot 802 in Square 188, in Ward One.

Related federal enactments: Section 152 of Public Law 106-113 provided:

“(a) Management Of Existing District Government Property.—upon the expiration of the 60-day period that begins on the date of the enactment of this Act, none of the funds contained in this Act may be used to enter into a lease (or to make rental payments under such a lease) for the use of real property by the District of Columbia government (including any independent agency of the District) or to purchase real property for the use of the District of Columbia government (including any independent agency of the District) or to manage real property for the use of the District of Columbia (including any independent agency of the District) unless the following conditions are met:

“(1) The Mayor and Council of the District of Columbia certify to the Committees on Appropriations of the House of Representatives and Senate that existing real property available to the District (whether leased or owned by the District government) is not suitable for the purposes intended.

“(2) Notwithstanding any other provisions of law, there is made available for sale or lease all real property of the District of Columbia that the Mayor from time-to-time determines is surplus to the needs of the District of Columbia, unless a majority of the members of the Council override the Mayor’s determination during the 30-day period which begins on the date the determination is published.

“(3) The Mayor and Council implement a program for the periodic survey of all District

property to determine if it is surplus to the needs of the District.

“(4) The Mayor and Council within 60 days of the date of the enactment of this Act have filed with the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform and Oversight of the House of Representatives, and the Committee on Governmental Affairs of the Senate a report which provides a comprehensive plan for the management of District of Columbia real property assets, and are proceeding with the implementation of the plan.

“(b) Termination Of Provisions.—If the District of Columbia enacts legislation to reform the practices and procedures governing the entering into of leases for the use of real property by the District of Columbia government and the disposition of surplus real property of the District government, the provisions of subsection (a) shall cease to be effective upon the effective date of the legislation.”

Section 8734 of Public Law 107-217 provided:

“Sec. 8734. Sale of land by Mayor

“(a) **AUTHORITY TO SELL**—With the approval of the National Capital Planning Commission, the Mayor of the District of Columbia, for the best interests of the District of Columbia, may sell to the highest bidder at public or private sale real estate in the District of Columbia owned in fee simple by the District of Columbia for municipal use that the Council of the District of Columbia and the Commission find to be no longer required for public purposes.

“(b) **PAYING EXPENSES AND DEPOSITING PROCEEDS**—The Mayor—

“(1) may pay the reasonable and necessary expenses of the sale of each parcel of land sold; and

“(2) shall deposit the net proceeds of each sale in the Treasury to the credit of the District of Columbia.”

Applicability of D.C. Law 16-112: Section 4 of D.C. Law 16-112 provided: “This act shall apply to resolutions submitted to the Council after the effective date of this act [June 8, 2006].”

Section 2 of D.C. Law 18-165 provided: “Notwithstanding An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801 et seq.), the Council approves the disposition of the real property formerly designated as federal reservations 129, 130, and 299 to CASCO Marina Development LLC, in accordance with the agreement between the District of Columbia and CASCO Marina Development, LLC.”

Section 6 of D.C. Law 18-368 provided: “Notwithstanding section 1(d) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public pur-



poses, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801(d)), the time period within which the Mayor may dispose of the property located at 1101-1111 24th Street, N.W., known for tax and assessment purposes as Lot 836, Square 37, 2301 L Street, N.W., Lot 837, Square 37, and 2225 M Street, N.W., Lot 822, Square 50, pursuant to the West End Parcels Disposition Approval Resolution of 2010, effective July 13, 2010 (Res.18-553; 57 DCR 7623), is extended to July 13, 2013.” Establishment of the Saint Elizabeths Redevelopment Initiative, see Mayor’s Order 2011-109, June 15, 2011 (58 DCR 5348).

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of

Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### CASE NOTES

#### **Fraudulent misrepresentation.**

Developer challenging District of Columbia’s selection of firm to purchase and develop District-owned land near subway station did not have a fraudulent misrepresentation claim against District, absent concrete, credible evidence that District made a fraudulent misrepresentation; in recommending the selection of winning firm, selection committee properly considered the best interests of the District, pro-

vided an analysis which included the manner in which economic factors were weighted and evaluated, including estimates of the monetary benefits and costs to the District that will result from the disposition, and took steps to ensure continuous community input in the disposition of the real property. *Urban Dev. Solutions, LLC v. District of Columbia*, 992 A.2d 1255, 2010 D.C. App. LEXIS 201 (2010).

## § 10-801.01. “Real property” defined.

For the purposes of this subchapter, the term “real property” means land titled in the name of the District of Columbia (“District”) or in which the District has a controlling interest and includes all structures of a permanent character erected thereon or affixed thereto, any natural resources located thereon or thereunder, all riparian rights attached thereto, or any air space located above or below the property or any street or alley under the jurisdiction of the Mayor.

(Aug. 5, 1939, 53 Stat. 1211, c. 449, § 1a, as added Mar. 15, 1990, D.C. Law 8-96, § 2, 37 DCR 795; Mar. 13, 2004, D.C. Law 15-105, § 53(a), 51 DCR 881.)

**Section references.** — This section is referenced in § 6-1451.01 and § 39-107a.

**Prior Codifications.** — 1981 Ed., § 9-401.1.

**Effect of amendments.** — D.C. Law 15-105 validated a previously made technical correction.

**Legislative history of Law 8-96.** — Law 8-96, the “Disposal of District Owned Surplus Real Property Amendment Act of 1989,” was introduced in Council and assigned Bill No. 8-302, which was referred to the Committee on Government Operations. The Bill was adopted

on first and second readings on November 21, 1989, and December 19, 1989, respectively. Approved without the signature of the Mayor on January 18, 1990, it was assigned Act No. 8-148 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 15-105.** — Law 15-105, the “Technical Amendments Act of 2003,” was introduced in Council and assigned Bill No. 15-437, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 2003, and December 2, 2003, respectively.

Signed by the Mayor on January 6, 2004, it was assigned Act No. 15-291 and transmitted to both Houses of Congress for its review. D.C.

Law 15-105 became effective on March 13, 2004.

## § 10-802. Expenses of sale; deposit of net proceeds.

(a) The Mayor is further authorized to pay the reasonable and necessary expenses of sale of each parcel of land sold and shall deposit the net proceeds of the sale in the District Treasury.

(b) Repealed.

(Aug. 5, 1939, 53 Stat. 1211, ch. 449, § 2; Sept. 11, 1990, D.C. Law 8-158, § 2(b), 37 DCR 4167; Sept. 30, 1996, 110 Stat. 3009 1477, Pub. L. 104-208, § 5206(b); Sept. 24, 2010, D.C. Law 18-223, § 1003, 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 9063, 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 98(c), 59 DCR 6190.)

**Prior Codifications.** — 1981 Ed., § 9-402. 1973 Ed., § 9-302.

**Effect of amendments.** — D.C. Law 18-223, in subsec. (b)(2), substituted “Except as provided in § 10-701(a), the Mayor” for “The Mayor”.

D.C. Law 19-21, in subsec. (a), substituted “sold and” for “sold and, the exception of the property mentioned in subsection (b) of this section,”; and repealed subsec. (b).

The 2012 amendment by D.C. Law 19-171 added a comma preceding “with the exception” and following “of this section” “ in (b) [now repealed].

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Miner Building Conveyance Temporary Amendment Act of 1994 (D.C. Law 10-161, August 25, 1994, law notification 41 DCR 6396).

**Emergency legislation.** — For temporary amendment of section, see § 2 of the Miner Building Conveyance Emergency Amendment

Act of 1994 (D.C. Act 10-256, June 23, 1994, 41 DCR 4472).

For temporary (90 day) amendment of section, see § 1003 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 8-158.** — For legislative history of D.C. Law 8-158, see Historical and Statutory Notes following § 10-801.

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 10-701.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-301.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

## § 10-803. Execution of deeds.

The Mayor of the District of Columbia is hereby authorized to execute proper deeds of the conveyance for real estate sold under the provisions of this subchapter, which shall contain a full description of the land sold, either by metes and bounds, or otherwise, according to law.

(Aug. 5, 1939, 53 Stat. 1211, ch. 449, § 3.)

**Cross references.** — Execution of instruments by Mayor, see § 1-301.23.

**Prior Codifications.** — 1981 Ed., § 9-403. 1973 Ed., § 9-303.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commis-

sioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners



under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced

by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## **§ 10-803.01. Unused and underutilized public school buildings.**

(a) For purposes of this section, the term:

(1) “Qualified High Technology Company” shall have the same meaning as set forth in § 47-1817.01(5).

(2) “Below-market rates” means rental rates representing a discount from prevailing market rents.

(3) “Sponsor” means a commercial real estate broker, landlord, venture capitalist, business incubator, technology company, commercial bank, investment banker, or a for-profit, nonprofit, or public-sector entity acting on behalf of a Qualified High Technology Company.

(b) Not later than one year after the effective date of this section, the Mayor shall report to the Council on the feasibility of selling, conveying, or leasing real property owned in fee simple or leased by the District of Columbia that is no longer required for public purposes to Qualified High Technology Companies.

(c) Not later than one year after the effective of this section, the Superintendent of the District of Columbia Public Schools (“Superintendent”) shall conduct a study of unused or underutilized buildings within the public school system and report the results to the Mayor and Council.

(d) The Mayor may lease, directly or through a sponsor of a Qualified High Technology Company, real property, or portions thereof, which are not required for public purposes to a Qualified High Technology Company at reasonable below-market rates. The Mayor shall promulgate regulations setting forth the method of determining whether properties owned or leased by the District of Columbia are not required for public purposes and the terms on which such properties may be leased under this section.

(e)(1) Within a reasonable time after the report described in subsection (c) of this section, the Mayor may, with the consent of the Superintendent, lease unused or underutilized public school real property to Qualified High Technology Companies or their sponsors at reasonable below-market rates.

(2) In exchange for facilities assistance under this section, a Qualified High Technology Company shall provide:

(A) Training courses to District of Columbia Public School teachers and administrators for the more efficient use of technology in the education process;

(B) Internships to District of Columbia Public School students throughout the calendar year;

(C) Employment to District of Columbia Public School students during the summer months when school is not in session;



(D) Technical support or expertise, including networking and maintaining computer systems and other related activities; or

(E) Any other assistance considered appropriate or acceptable by the Mayor and Superintendent.

(f) The Mayor and the Superintendent shall convene a summit to facilitate the internships and jobs described in subsection (e)(2) of this section.

(g) Nothing in this section shall affect the preference for public charter schools in leasing or purchasing public school facilities, as set forth in § 38-1802.09.

(Aug. 5, 1939, 53 Stat. 1211, ch. 449, § 3a, as added Apr. 3, 2001, D.C. Law 13-256, § 303, 48 DCR 730; Oct. 19, 2002, D.C. Law 14-213, §§ 15(b), 37(b), 49 DCR 8140.)

**Prior Codifications.** — 2001 Ed., § 10-805.01.

**Effect of amendments.** — D.C. Law 14-213, in subsec. (g), validated a previously made technical correction.

**Legislative history of Law 13-256.** — Law 13-256, the “New E-Conomy Transformation Act of 2000”, was introduced in Council and assigned Bill No. 13-752, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings

on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on December 21, 2000, it was assigned Act No. 13-543 and transmitted to both Houses of Congress for its review. D.C. Law 13-256 became effective on April 3, 2001.

**Legislative history of Law 14-213.** — For Law 14-213, see notes following § 10-801.

**Editor’s notes.** — D.C. Law 14-213 renumbered from § 5 to § 3a the section added to the Act of Aug. 5, 1939, by D.C. Law 13-256, § 303.

## § 10-804. Secretary of the Interior to sell certain real estate — Authorization.

The Secretary of the Interior, with the approval of the National Capital Planning Commission, is hereby authorized, in his discretion, for the best interests of the United States, to sell and convey, in whole or in part, by proper deed or instrument, any real estate held by the United States in the District of Columbia and under the jurisdiction of the National Park Service, which may be no longer needed for public purposes, for cash, or on such deferred-payment plan as the Secretary of the Interior may approve, at a price not less than that paid for it by the government and not less than its present appraised value as determined by him.

(Aug. 5, 1939, 53 Stat. 1211, ch. 449, § 4.)

**Prior Codifications.** — 1981 Ed., § 9-404. 1973 Ed., § 9-304.

**Transfer of Functions.** — The functions, powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of June 6, 1924, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

All functions of all officers of the Department of the Interior and all functions of all agencies and employees of such Department were transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1262.

### § 10-805. Secretary of the Interior to sell certain real estate — Solicitation for bids.

In selling any parcel of land under this subchapter, said Secretary shall cause such public or private solicitation for bids or offers to be made as he may deem appropriate, and shall sell the parcel to the party agreeing to pay the highest price therefor if such price is otherwise satisfactory; provided, that in the event the price offered or bid by the owner of any lands abutting the lands to be sold equals the highest price offered or bid by any other party, the parcel may be sold to such abutting owner.

(Aug. 5, 1939, 53 Stat. 1211, ch. 449, § 5.)

**Prior Codifications.** — 1981 Ed., § 9-405. 1973 Ed., § 9-305.

### § 10-806. Secretary of the Interior to sell certain real estate — Expenses of sales.

Said Secretary is further authorized to pay the reasonable and necessary expenses of sale of each parcel of land sold, and shall deposit the net proceeds thereof in the Treasury to the credit of the United States and the District of Columbia in the proportion that each paid the appropriations from which the parcels of land were acquired or were obligated to pay the same, at the time of acquisition, by reimbursement.

(Aug. 5, 1939, 53 Stat. 1211, ch. 449, § 6.)

**Prior Codifications.** — 1981 Ed., § 9-406. 1973 Ed., § 9-306.

### § 10-807. Inventory of real property owned by District. [Repealed].

Repealed.

(Aug. 5, 1939, 53 Stat. 1211, c. 449, § 6a, as added Mar. 15, 1990, D.C. Law 8-96, § 4, 37 DCR 795; Mar. 13, 2004, D.C. Law 15-105, § 53(b), 51 DCR 881; Mar. 11, 2010, D.C. Law 18-115, 2(b), 57 DCR 886.)

**Prior Codifications.** — 1981 Ed., § 9-407.

**Legislative history of Law 8-96.** — For legislative history of D.C. Law 8-96, see Historical and Statutory Notes following § 10-801.01.

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 10-801.01.

**Legislative history of Law 18-115.** — For Law 18-115, see notes following § 10-801.

## *Subchapter II. Special Disposal Procedures for Certain Properties.*

### § 10-831. Properties subject to disposition.

(a) The Mayor may dispose of real property that is, or has previously been determined to be, abandoned or deteriorated property, as those terms are defined in § 42-3171.01, under this subchapter if:

(1) The property is owned or acquired by the District;

(2) The property is suitable for, and the Mayor proposes construction, reconstruction, or rehabilitation as, a single-household property or a multi-household property containing 25 or fewer single-household dwelling units; and

(3)(A) The property is listed in § 10-839; or

(B) Disposition of the property pursuant to this subchapter is approved by the Council pursuant to a proposed resolution transmitted by the Mayor for a 5-day period of review, excluding days of Council recess. If no Councilmember introduces a disapproval resolution within the 5-day period, the resolution shall be deemed approved at the end of the 5-day period. If a resolution of disapproval is introduced by at least 3 Councilmembers within the 5-day period, the Council review period shall be 45 days from the date the Mayor transmitted the proposed resolution to the Council, excluding days of Council recess. If the Council does not approve the disapproval resolution within the 45-day period, the resolution shall be deemed approved.

(b) The authority of the Mayor under this subchapter shall expire on September 30, 2011.

(c) The process for disposing of any property pursuant to this subchapter shall be conducted solely pursuant to the requirements set forth in this subchapter and shall not be subject to any other statutory provision governing the process for the disposition of real property, nor shall any property disposed of pursuant to this subchapter be subject to the prerequisites to disposition of property set forth in § 42-3171.03.

(Apr. 2, 2003, D.C. Law 14-267, § 2, 50 DCR 420; Dec. 7, 2004, D.C. Law 15-205, § 2002(a), 51 DCR 8441; June 8, 2006, D.C. Law 16-119, § 3(a), 53 DCR 2609.)

**Section references.** — This section is referenced in § 10-839.

**Effect of amendments.** — D.C. Law 15-205 rewrote pars. (1) and (2) of subsec. (a); in subsec. (b), substituted “2006” for “2004”; and added subsec. (c).

D.C. Law 16-119, in par. (a)(2), substituted “a single-household property or a multi-household property containing 25 or fewer single-household dwelling units” for “a single-household residence or a multi-household residence of 5 or fewer units”; and in subsec. (b), substituted “2011” for “2006”.

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 2 of Abandoned and Vacant Properties Community Development Disposition, and Disapproval of Disposition of Certain Scattered Vacant and Abandoned Properties Temporary of 2002 (D.C. Law 14-203, October 17, 2002, law notification 49 DCR 10021).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2002(a) of Fiscal Year 2005 Budget Support Emergency

Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) amendment of section, see § 2002(a) of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

**Legislative history of Law 14-267.** — Law 14-267, the “Vacant and Abandoned Properties Community Development and Disapproval of Disposition of Certain Scattered Vacant and Abandoned Properties Act of 2002”, was introduced in Council and assigned Bill No. 14-675, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 3, 2002, and December 17, 2002, respectively. Signed by the Mayor on January 7, 2003, it was assigned Act No. 14-579 and transmitted to both Houses of Congress for its review. D.C. Law 14-267 became effective on April 2, 2003.

**Legislative history of Law 15-205.** — Law 15-205, the “Fiscal Year 2005 Budget Support Act of 2004”, was introduced in Council and



assigned Bill No. 15-768, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 14, 2004, and June 29, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-487 and transmitted to both Houses of Congress for its review. D.C. Law 15-205 became effective on December 7, 2004.

**Legislative history of Law 16-119.** — Law 16-119, the “Home Again Initiative Community Development Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-403 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on February 7, 2006, and March 7, 2006, respectively. Signed by the Mayor on March 23, 2006, it was assigned Act No. 16-336 and transmitted to both Houses of Congress for its review. D.C. Law 16-119 became effective on June 8, 2006.

**Short title.** — Short title of subtitle A of title II of Law 15-205: Section 2001 of D.C. Law

15-205 provided that subtitle A of title II of the act may be cited as the Vacant and Abandoned Properties Amendment Act of 2004.

**Delegation of Authority.** — Delegation of the Mayor’s Disposition Authority to the Deputy Mayor for Planning and Economic Development to Dispose of Certain Vacant and Abandoned Real Property in the District of Columbia, see Mayor’s Order 2005-189, December 2, 2005 (53 DCR 693).

Delegation of Authority to the Director of the Department of Housing and Community Development, see Mayor’s Order 2007-209, September 27, 2007 (55 DCR 133).

**Resolutions.** — Resolution 16-204, the “Vacant and Abatement Properties Community Development Disposition Approval Resolution of 2005”, was approved effective June 13, 2005.

**Editor’s notes.** — Section 11 of D.C. Law 14-267 provided: “The Disposition of Certain Scattered Vacant and Abandoned Properties Approval Resolution of 2002, introduced on March 1, 2002 (P.R. 14-585), is disapproved.”

## § 10-832. Method of disposition.

(a) A property disposed of pursuant to this subchapter shall be disposed of pursuant to a request for proposals (“RFP”) issued by the Mayor.

(b) A single-household property disposed of pursuant to this subchapter shall be disposed of as part of a bundle of at least 5 properties and not more than 25 properties. A property improved as a multi-household property containing at least 5 single-household dwelling units and no more than 25 single-household dwelling units may be disposed of individually or as part of a bundle of up to 25 properties.

(c) At least 30% of all single-household dwelling units, irrespective of whether they are single-household dwelling units contained in a multi-household property or in a single-household property, in each bundle of property disposed of pursuant to an RFP, or such greater proportion determined by the Mayor, shall be sold or rented at a price affordable to a household earning 60% or less of the area median income. If the number representing 30% of the single-household dwelling units is not a whole number, the Mayor may round to the next lower whole number.

(d) Each property shall be disposed of on an as-is basis.

(Apr. 2, 2003, D.C. Law 14-267, § 3, 50 DCR 420; June 8, 2006, D.C. Law 16-119, § 3(b), 53 DCR 2609.)

**Section references.** — This section is referenced in § 10-835.

**Effect of amendments.** — D.C. Law 16-119 added subsecs. (c) and (d); and rewrote subsec. (b), which had read as follows: “(b) A property disposed of pursuant to this subchapter shall be disposed of as part of a bundle of at least 5, and not more than 25 properties.”

**Temporary Addition of Section.** — For

temporary (225 day) addition, see § 3 of Abandoned and Vacant Properties Community Development Disposition, and Disapproval of Disposition of Certain Scattered Vacant and Abandoned Properties Temporary of 2002 (D.C. Law 14-203, October 17, 2002, law notification 49 DCR 10021).

**Legislative history of Law 14-267.** — For Law 14-267, see notes following § 10-831.

**Legislative history of Law 16-119.** — For Law 16-119, see notes following § 10-831.

**§ 10-833. Minimum standards for disposition.**

(a) A request for proposals issued pursuant to this subchapter shall contain the following provisions:

(1) No person shall be eligible to purchase a property disposed of pursuant to this subchapter unless the person first signs a first source employment agreement.

(2) No person shall be eligible to purchase a property disposed of pursuant to this subchapter unless the person first signs a certificate evidencing the person's intent to enter into a memorandum of understanding with the Department of Small and Local Business Development, established by § 2-218.11, to make a good-faith effort to contract with, and procure from, local, small, and disadvantaged business enterprises ("LSDBE MOUs"). The contents of the certificate and the memorandum shall be determined by the Department of Small and Local Business Development, established by § 2-218.11.

(3) Each property disposed of pursuant to the RFP shall be rehabilitated and offered for sale or rental to the public in no more than 12 months, or such shorter period determined by the Mayor, after the disposition of the property.

(4) Repealed.

(5) Repealed.

(b) The Mayor may establish other minimum standards as part of the RFP.

(c) The Mayor shall list all known minimum requirements as part of the RFP.

(Apr. 2, 2003, D.C. Law 14-267, § 4, 50 DCR 420; June 8, 2006, D.C. Law 16-119, § 3(c), 53 DCR 2609; Mar. 2, 2007, D.C. Law 16-191, § 42, 53 DCR 6794.)

**Section references.** — This section is referenced in § 10-835.

**Effect of amendments.** — D.C. Law 16-119, in par. (a)(3), substituted "offered for sale or rental" for "offered for sale"; and repealed pars. (a)(4) and (a)(5).

D.C. Law 16-191, in subsec. (a)(2), substituted "Department of Small and Local Business Development, established by § 2-218.11" for "Office of Local Business Development".

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 4 of Aban-

doned and Vacant Properties Community Development Disposition, and Disapproval of Disposition of Certain Scattered Vacant and Abandoned Properties Temporary of 2002 (D.C. Law 14-203, October 17, 2002, law notification 49 DCR 10021).

**Legislative history of Law 14-267.** — For Law 14-267, see notes following § 10-831.

**Legislative history of Law 16-119.** — For Law 16-119, see notes following § 10-831.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 10-801.

**§ 10-834. Subsidies.**

(a) The Mayor may offer a subsidy as part of the RFP for the disposition of a bundle of property to:

(1) Attain a clearly stated affordability component; or

(2) Make feasible the rehabilitation and resale or rental of the property at market price.



(b) If the Mayor offers a subsidy as part of an RFP, the subsidy shall be stated as a maximum available amount. The amount of subsidy requested and the affordability levels achieved shall be weighed when determining the points awarded to an offeror.

(c) There is established, under the authority of the Mayor, a designated and nonlapsing account into which proceeds from the sale of bundled properties may be deposited, which shall remain available until expended and the balance of which shall not exceed one million dollars, that shall be used to:

- (1) Finance or subsidize the sale of other bundled properties; and
- (2) Acquire additional parcels of property.

(Apr. 2, 2003, D.C. Law 14-267, § 5, 50 DCR 420; Nov. 13, 2003, D.C. Law 15-39, § 202, 50 DCR 5668; June 8, 2006, D.C. Law 16-119, § 3(d), 53 DCR 2609.)

**Section references.** — This section is referenced in § 10-835.

**Effect of amendments.** — D.C. Law 15-39 added subsec. (c).

D.C. Law 16-119, in subsec. (a), substituted “as part of the RFP for the disposition of a bundle of property” for “as part of the RFP for the disposition of a bundle of properties”; in par. (a)(2), substituted “rehabilitation and resale or rental of the property” for “rehabilitation and resale of the properties”; and rewrote subsec. (b), which had read as follows: “(b) If the Mayor offers a subsidy as part of an RFP, the subsidy shall be stated as a maximum available amount, and more points shall be awarded to an offeror requesting a smaller subsidy.”

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 5 of Abandoned and Vacant Properties Community Development Disposition, and Disapproval of Disposition of Certain Scattered Vacant and Abandoned Properties Temporary of 2002 (D.C. Law 14-203, October 17, 2002, law notification 49 DCR 10021).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 202 of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

**Legislative history of Law 14-267.** — For Law 14-267, see notes following § 10-831.

**Legislative history of Law 15-39.** — Law 15-39, the “Fiscal Year 2004 Budget Support Act of 2003”, was introduced in Council and assigned Bill No. 15-218, which was referred to Committee on Whole. The Bill was adopted on first and second readings on May 6, 2003, and June 3, 2003, respectively. Signed by the Mayor on June 20, 2003, it was assigned Act No. 15-106 and transmitted to both Houses of Congress for its review. D.C. Law 15-39 became effective on November 13, 2003.

**Legislative history of Law 16-119.** — For Law 16-119, see notes following § 10-831.

**Short title.** — Short title of subtitle A of title II of Law 15-39: Section 201 of D.C. Law 15-39 provided that subtitle A of title II of the act may be cited as the Vacant and Abandoned Properties Amendment Act of 2003.

## § 10-835. Evaluation criteria of a request for proposals.

An RFP to dispose of property pursuant to this subchapter shall use the following evaluation criteria and point system:

(1) *Offering price.* — More points shall be awarded for a higher proposed offering price. If a subsidy is offered under § 10-834 and is requested by the proposer, the subsidy shall be considered in conjunction with the offering price. (10 points).

(2) *Quality of rehabilitation.* — More points shall be awarded for proposing higher-quality rehabilitation. (20 points).

(3) *Affordability.* — The minimum affordability level shall be determined pursuant to § 10-832(c), and shall remain in effect for not less than 10 years for property offered for sale to the public and not less than 40 years for property offered for rental to the public. More points shall be awarded for proposing to



develop additional affordable single-household dwelling units (that is units not counted toward the minimum affordability level); greater levels of affordability (that is affordable to a household earning 60% or less of the area median income); or for longer periods of affordability (that is for longer than the minimum period of affordability). (20 points).

(4) *Level of LSDBE involvement.* — Pursuant to § 10-833(a)(2), a person submitting a winning proposal will be required to enter into an LSDBE MOU. More points shall be awarded for proposing, and evidencing the commitment and ability to achieve, greater involvement by, an LSDBE. (10 points). An additional 5 points shall be awarded to a person submitting a proposal that is an LSDBE whose primary place of business is in the District of Columbia.

(5) *Feasibility.* — More points shall be awarded to a proposal that is deemed more feasible. Feasibility shall be based on the consideration of whether the property will be likely to be developed and sold or rented in the time-line proposed, with the quality of construction proposed, and at the sales or rental prices proposed. (35 points).

(Apr. 2, 2003, D.C. Law 14-267, § 6, 50 DCR 420; Mar. 13, 2004, D.C. Law 15-105, § 8(1), 51 DCR 881; June 8, 2006, D.C. Law 16-119, § 3(e), 53 DCR 2609.)

**Effect of amendments.** — D.C. Law 15-105 deleted subsection designation “(a)”; in par. (4), substituted “proposal that” for “proposal who”, and also validated a previously made technical correction.

D.C. Law 16-119, in the lead-in language, substituted “An RFP to dispose of property” for “An RFP to dispose of properties”; in par. (5), substituted “Feasibility shall be based on the consideration of whether the property will be likely to be developed and sold or rented in the time-line proposed, with the quality of construction proposed, and at the sales or rental prices proposed.” for “Feasibility shall be based on the consideration of whether the properties will be likely to be developed and sold in the time-line proposed, with the quality of construction proposed, and at the sales prices proposed.”; and rewrote par. (3), which had read as follows: “(3) Affordability. The mini-

mum affordability level shall be determined pursuant to § 10-833(a)(4). More points shall be awarded for proposing to develop additional properties (that is properties not counted toward the minimum affordability level) as workforce housing. (20 points).”

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 6 of Abandoned and Vacant Properties Community Development Disposition, and Disapproval of Disposition of Certain Scattered Vacant and Abandoned Properties Temporary of 2002 (D.C. Law 14-203, October 17, 2002, law notification 49 DCR 10021).

**Legislative history of Law 14-267.** — For Law 14-267, see notes following § 10-831.

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 10-801.01.

**Legislative history of Law 16-119.** — For Law 16-119, see notes following § 10-831.

## § 10-836. Disposition of properties.

(a) Within 90 days after a winning proposal is selected, the Mayor and the selected person shall enter into a disposition agreement governing the sale of the bundle of property. Each disposition agreement shall provide for, and the Mayor and the selected person shall consummate, the sale of the bundle of property within 270 days after the effective date of the disposition agreement; provided, that if the selected person must obtain regulatory approval for zoning or historic preservation purposes prior to the demolition, construction, or rehabilitation of a property to be disposed of, including a rezoning, special exception, or variance, the disposition agreement shall provide for, and the

Mayor and the selected person shall consummate, the sale of the property within 360 days after the effective date of the disposition agreement.

(b) The Mayor may establish pre-conditions for closing, including the following:

- (1) Construction financing shall be in place;
  - (2) All relevant entities shall be registered to do business in the District;
  - (3) All relevant entities shall be current in all taxes owed to the District;
- and
- (4) No relevant entity shall be in default on any obligation to the District.

(Apr. 2, 2003, D.C. Law 14-267, § 7, 50 DCR 420; Mar. 13, 2004, D.C. Law 15-105, § 8(2), 51 DCR 881; Dec. 7, 2004, D.C. Law 15-205, § 2002(b), 51 DCR 8441; June 8, 2006, D.C. Law 16-119, § 3(f), 53 DCR 2609.)

**Effect of amendments.** — D.C. Law 15-105, in subsec. (b)(3), validated a previously made technical correction.

D.C. Law 15-205 rewrote subsec. (a) which had read as follows: “(a) Within 90 days after a winning proposal is selected, or such shorter period as may be determined by the Mayor, the Mayor and the person submitting the winning proposal shall close on the disposition of the properties.”

D.C. Law 16-119 rewrote subsec. (a), which had read as follows: “(a) Within 90 days after a winning proposal is selected, the Mayor and the selected person shall enter into a sales contract governing the disposition of the properties. Each sales contract shall provide for, and the Mayor and the selected person shall consummate, the sale of the properties within 270 days after the effective date of the sales contract; provided, if the selected person must obtain regulatory approval for zoning or historic preservation purposes prior to the demolition, construction, or rehabilitation of a property to be disposed of, including a rezoning, special exception, or variance, the sales contract shall provide for, and the Mayor and the selected person shall consummate, the sale of such property

within 360 days after the effective date of the sales contract.”

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 7 of Abandoned and Vacant Properties Community Development Disposition, and Disapproval of Disposition of Certain Scattered Vacant and Abandoned Properties Temporary of 2002 (D.C. Law 14-203, October 17, 2002, law notification 49 DCR 10021).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2002(b) of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) amendment of section, see § 2002(b) of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

**Legislative history of Law 14-267.** — For Law 14-267, see notes following § 10-831.

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 10-801.01.

**Legislative history of Law 15-205.** — For Law 15-205, see notes following § 10-831.

**Legislative history of Law 16-119.** — For Law 16-119, see notes following § 10-831.

## § 10-837. Evaluation committee.

The Mayor shall establish an evaluation committee of at least 5 members to review the proposals submitted in response to an RFP and provide comments and recommendations to the Mayor regarding the proposals and which proposal to accept. At least 2 members of the evaluation committee shall not be government employees and shall have professional experience related to the evaluation of the proposals.

(Apr. 2, 2003, D.C. Law 14-267, § 8, 50 DCR 420.)

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 8 of Abandoned and Vacant Properties Community De-

velopment Disposition, and Disapproval of Disposition of Certain Scattered Vacant and Abandoned Properties Temporary of 2002 (D.C.



Law 14-203, October 17, 2002, law notification 49 DCR 10021).

**Legislative history of Law 14-267.** — For Law 14-267, see notes following § 10-831.

## § 10-838. Quarterly report.

The Mayor shall transmit to the Council within 30 days after the end of each quarter a report containing the following information:

- (1) A list of the properties acquired during the quarter to be disposed of pursuant to this subchapter;
- (2) A list of the properties disposed of pursuant to this subchapter during the quarter;
- (3) A copy of each RFP issued during the quarter;
- (4) A copy of each winning proposal selected during the quarter;
- (5) A copy of each disposition agreement entered into during the quarter;
- (6) A cumulative list of each property disposed of pursuant to this subchapter including:
  - (A) The status of the rehabilitation of the property;
  - (B) Whether the developer has resold or rented the property;
  - (C) A list of the properties sold or rented as affordable to households earning 60% or less of area median income, that specifies the percentage of area median income earned by the household; and
- (7) Any other relevant information.

(Apr. 2, 2003, D.C. Law 14-267, § 9, 50 DCR 420; June 8, 2006, D.C. Law 16-119, § 3(g), 53 DCR 2609.)

**Effect of amendments.** — D.C. Law 16-119 rewrote par. (6), which had read as follows: “(6) A cumulative list of each property disposed of pursuant to this subchapter, the status of the rehabilitation of the property, and whether the developer has resold the property for residential occupancy; and”

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 9 of Abandoned and Vacant Properties Community De-

velopment Disposition, and Disapproval of Disposition of Certain Scattered Vacant and Abandoned Properties Temporary of 2002 (D.C. Law 14-203, October 17, 2002, law notification 49 DCR 10021).

**Legislative history of Law 14-267.** — For Law 14-267, see notes following § 10-831.

**Legislative history of Law 16-119.** — For Law 16-119, see notes following § 10-831.

## § 10-839. Certain properties approved for disposition.

The following properties may be disposed of pursuant to § 10-831(a)(3)(A):

- (1) Square 3401, Lot 0055 (22 Farragut Place, N.W.);
- (2) Square 3401, Lot 0060 (12 Farragut Place, N.W.);
- (3) Square 4469, Lot 0053 (1145 Summit Street, N.E.);
- (4) Square 5755, Lot 0101 (1626 Galen Street, S.E.);
- (5) Square 5168, Lot 0015 (4718 Quarles Street, N.E.);
- (6) Square 5168, Lot 0015 (4720 Quarles Street, N.E.);
- (7) Square 5168, Lot 0015 (4722 Quarles Street, N.E.);
- (8) Square 5727, Lot 0811 (Buena Vista Terrace, S.E.);
- (9) Square 3401, Lot 0056 (20 Farragut Place, N.W.);
- (10) Square 3401, Lot 0058 (16 Farragut Place, N.W.);
- (11) Square 3401, Lot 0059 (14 Farragut Place, N.W.);
- (12) Square 4078, Lot 0214 (1239 16th Street, N.E.);



- (13) Square 5083, Lot 0120 (4041 Benning Road, N.E.);
- (14) Square 5176, Lot 0995 (4933 Sheriff Road, N.E.);
- (15) Square 5260, Lot 0806 (Dix Street, N.E.);
- (16) Square 5765, Lot 0853 (1650 U Street, S.E.);
- (17) Square 0362, Lot 0242 (1822 9th Street, N.W.);
- (18) Square 0362, Lot 0249 (909 S Street, N.W.);
- (19) Square 2842, Lot 0051 (1120 Park Road, N.W.);
- (20) Square 2854, Lot 0073 (1319 Harvard Street, N.W.);
- (21) Square 3038, Lot 0833 (619 Park Road, N.W.);
- (22) Square 0363, Lot 0035 (920 French Street, N.W.);
- (23) Square 0363, Lot 0075 (932 French Street, N.W.);
- (24) Square 0509, Lot 0111 (1603 5th Street, N.W.);
- (25) Square 0526, Lot 0815 (1031 4th Street, N.W.);
- (26) Square 3010, Lot 0194 (814 Delafield Place, N.W.);
- (27) Square 3210, Lot 0098 (5212 5th Street, N.W.);
- (28) Square 3237, Lot 0061 (406 Shepherd Street, N.W.);
- (29) Square 3319, Lot 0820 (223 Webster Street, N.W.);
- (30) Square 3705, Lot 0823 (Riggs Road, N.E.);
- (31) Square 0519, Lot 0041 (307 R Street, N.W.);
- (32) Square 3562, Lot 0002 (320 V Street, N.E.);
- (33) Square 3563, Lot 0108 (2023 3rd Street, N.E.);
- (34) Square 4039, Lot 0807 (964 Mount Olivet Road, N.E.);
- (35) Square 4055, Lot 0040 (N.E.);
- (36) Square 4055, Lot 0130 (N.E.);
- (37) Square 4057, Lot 0193 (1259 Holbrook Terrace, N.E.);
- (38) Square 4058, Lot 0801 (1612 Montello Avenue, N.E.);
- (39) Square 4083, Lot 0012 (1721 Holbrook Street, N.E.);
- (40) Square 4253, Lot 0818 (N.E.);
- (41) Square 4315, Lot 0814 (2616 Myrtle Avenue, N.E.);
- (42) Square 4319, Lot 0072 (N.E.);
- (43) Square 4445, Lot 0819 (18th Place, N.E.);
- (44) Square 4469, Lot 0054 (1147 Summit Street, N.E.);
- (45) Square 1550, Lot 0164 (N.E.);
- (46) Square 0776, Lot 0050 (I Street, N.E.);
- (47) Square 0836, Lot 0060 (513 E Street, N.E.);
- (48) Square 0855, Lot 0319 (655 Morton Street, N.E.);
- (49) Square 1003, Lot 0049 (1215 Wylie Street, N.E.);
- (50) Square 1003, Lot 0050 (1217 Wylie Street, N.E.);
- (51) Square 1003, Lot 0812 (1209 Wylie Street, N.E.);
- (52) Square 1029, Lot 0087 (1337 Emerald Street, N.E.);
- (53) Square 1072S, Lot 0046 (1527 Independence Avenue, S.E.);
- (54) Square 1112, Lot 0088 (1816 Bay Street, S.E.);
- (55) Square 4540, Lot 0147 (649 16th Street, N.E.);
- (56) Square 4540, Lot 0829 (647 16th Street, N.E.);
- (57) Square 5765, Lot 0884 (1648 U Street, S.E.);
- (58) Square 5801, Lot 0284 (2315 Chester Street, S.E.);
- (59) Square 5804, Lot 0195 (2321 High Street, S.E.);

- (60) Square 5045, Lot 0017 (209 35th Street, N.E.);
- (61) Square 5129, Lot 0815 (4511 Gault Place, N.E.);
- (62) Square 5150, Lot 0095 (831 46th Street, N.E.);
- (63) Square 5150, Lot 0105 (4619 Jay Street, N.E.);
- (64) Square 5154, Lot 0013 (4607 Kane Place, N.E.);
- (65) Square 5174, Lot 0022, (1109 50th Place, N.E.);
- (66) Square 5176, Lot 0989 (4906 Jay Street, N.E.);
- (67) Square 5210, Lot 0034 (5354 Nannie Helen Burroughs Avenue, N.E.);
- (68) Square 5210, Lot 0035 (5354 Nannie Helen Burroughs Avenue, N.E.);
- (69) Square 5210, Lot 0036 (5354 Nannie Helen Burroughs Avenue, N.E.);
- (70) Square 5243, Lot 0032 (5300 East Capitol Street, N.E.);
- (71) Square 5251, Lot 0818 (Clay Place, N.E.);
- (72) Square 5298, Lot 0017 (5302 F Street, S.E.);
- (73) Square 5302, Lot 0010 (5341 C Street, S.E.);
- (74) Square 5317, Lot 0009 (5135 F Street, S.E.);
- (75) Square 5336, Lot 0029 (4919 C Street, S.E.);
- (76) Square 5340, Lot 0050 (5019 H Street, S.E.);
- (77) Square 5349, Lot 0014 (39 47th Street, S.E.);
- (78) Square 5362, Lot 0193 (4675 H Street, S.E.);
- (79) Square 5362, Lot 0194 (5001 Benning Road, S.E.);
- (80) Square 5362, Lot 0195 (5007 Benning Road, S.E.);
- (81) Square 5447, Lot 0800 (3227 D Street, S.E.);
- (82) Square 5579, Lot 0055 (S.E.);
- (83) Square 5727, Lot 0810 (Buena Vista Terrace, S.E.);
- (84) Square 5740, Lot 0028 (Ainger Place, S.E.);
- (85) Square 5740, Lot 0034 (S.E.);
- (86) Square 5740, Lot 0852 (Skyland Terrace, S.E.);
- (87) Square 5827, Lot 0010 (2302 Pomeroy Road, S.E.);
- (88) Square 5867, Lot 0174 (2808 Wade Road, S.E.);
- (89) Square 5867, Lot 0898 (Wade Road, S.E.);
- (90) Square 5936, Lot 0802 (3401 13th Street S.E.);
- (91) Square 5946, Lot 0805 (1201 Alabama Avenue, S.E.);
- (92) Square 5970, Lot 2030 (3423 5th Street, S.E. Unit 24);
- (93) Square 6158, Lot 0090 (832 Yuma Street, S.E.);
- (94) Square 6208, Lot 0048 (4250 6th Street, S.E.);
- (95) Square 6208, Lot 0054 (4238 6th Street, S.E.);
- (96) Square 6239, Lot 0060 (62 Forrester Street, S.W.);
- (97) Square 6239, Lot 0082 (105 Galveston Place, S.W.); or
- (98) Square 6240, Lot 0083 (161 Forrester Street, S.W.).

(Apr. 2, 2003, D.C. Law 14-267, § 10, 50 DCR 420.)

**Section references.** — This section is referenced in § 10-831.

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 10 of Abandoned and Vacant Properties Community Development Disposition, and Disapproval of Dis-

position of Certain Scattered Vacant and Abandoned Properties Temporary of 2002 (D.C. Law 14-203, October 17, 2002, law notification 49 DCR 10021).

**Legislative history of Law 14-267.** — For Law 14-267, see notes following § 10-831.

## CHAPTER 9. EXCHANGE OF DISTRICT-OWNED LAND.

Sec.	Sec.
10-901. Council empowered to effect exchange.	10-904. Mayor authorized to pay or receive
10-902. Publication of intended exchange.	amounts as part of consideration
10-903. Mayor authorized to execute and accept deed.	for exchange.

## § 10-901. Council empowered to effect exchange.

Where 2 lots or parcels of land abut each other and 1 of such lots or parcels belongs to the District of Columbia, the Council of the District of Columbia, in accordance with § 10-801, is hereby authorized and empowered, when in its judgment and discretion it is for the best interest of the District of Columbia, to exchange such District-owned land, or part thereof, for the abutting lot or parcel of land, or part thereof.

(Aug. 1, 1951, 65 Stat. 150, ch. 283; Mar. 15, 1990, D.C. Law 8-96, § 7, 37 DCR 795.)

**Prior Codifications.** — 1981 Ed., § 9-501.  
1973 Ed., § 9-401.

**Legislative history of Law 8-96.** — Law 8-96, the “Disposal of District Owned Surplus Real Property Amendment Act of 1989,” was introduced in Council and assigned Bill No. 8-302, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on November 21, 1989, and December 19, 1989, respectively. Approved without the signature of the Mayor on January 18, 1990, it was assigned Act No. 8-148 and transmitted to both Houses of Congress for its review.

**Transfer of Functions.** — The functions, powers and duties of the National Capital Park and Planning Commission were transferred to the National Capital Planning Commission by the Act of June 6, 1924, ch. 270, § 9, as added by the Act of July 19, 1952, 66 Stat. 790, ch. 949, § 1.

**Editor’s notes.** — Disposal of surplus real property: Section 2 of D.C. Law 8-96 provided that for the purposes of this act, the term “real property” means land titled in the name of the District of Columbia (“District”) or in which the District has a controlling interest and includes all structures of a permanent character erected thereon or affixed thereto, any natural resources located thereon or thereunder, all riparian rights attached thereto, or any air space located above or below the property or any street or alley under the jurisdiction of the Mayor.

Mayor to establish centralized automated database containing inventory of real property owned by District: Section 4 of D.C. Law 8-96 provided that the Mayor shall establish a centralized automated database containing an inventory of all real property owned by the District, with the information to include certain data as specified in § 10-807.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402 (193) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-902. Publication of intended exchange.

No such exchange shall be made unless the Council of the District of Columbia shall, 30 days prior thereto, publish in a newspaper of general



circulation in the said District a notice of its intention to make such exchange and such notice shall include a description by lot or parcel number or otherwise of all lots or parcels to be exchanged and the appraised value thereof.

(Aug. 1, 1951, 65 Stat. 150, ch. 283.)

**Prior Codifications.** — 1981 Ed., § 9-502. 1973 Ed., § 9-402.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402 (193) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-903. Mayor authorized to execute and accept deed.

The Mayor of the District of Columbia is hereby authorized to execute a proper deed of conveyance for the land belonging to the District to be conveyed and to accept a proper deed of conveyance from the owner of such abutting real estate.

(Aug. 1, 1951, 65 Stat. 150, ch. 283.)

**Prior Codifications.** — 1981 Ed., § 9-503. 1973 Ed., § 9-403.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-904. Mayor authorized to pay or receive amounts as part of consideration for exchange.

If, in the opinion of the Mayor of the District of Columbia, the value of the land to be conveyed to the District is in excess of the value of the land to be conveyed by the District, the Mayor is authorized to pay, within the limitation of appropriations therefor, to the abutting property owner the amount of such excess as determined by the Mayor, on the basis of an appraisal, and, if the value of the land to be conveyed by the District is in excess of the value of the land to be conveyed to the District, the Mayor shall require the abutting property owner to pay such excess as determined by the Mayor, on the basis of an appraisal, as part of the consideration for the said exchange.

(Aug. 1, 1951, 65 Stat. 150, ch. 283.)

**Prior Codifications.** — 1981 Ed., § 9-504.  
1973 Ed., § 9-404.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CHAPTER 10. DEPARTMENT OF REAL ESTATE SERVICES.

Sec.

10-1001 to 10-1018. [Repealed].

## § 10-1001. Establishment of the Department of Real Estate Services. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1802, 45 DCR 7193; Mar. 11, 2010, D.C. Law 18-115, § 3(a), (b), 57 DCR 886; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Prior Codifications.** — 1981 Ed., § 9-1101.

**Emergency legislation.** — For temporary addition of section, see § 1402 of the Fiscal Year 1999 Budget Support Emergency Act of 1998 (D.C. Act 12-401, July 13, 1998, 45 DCR 4794), and § 1402 of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1998 (D.C. Act 12-564, January 12, 1999, 46 DCR 669).

For temporary abolition, as of October 1, 1998, of the Department of Administrative Services, established under Reorganization Plan No. 5 of 1983, effective March 1, 1983, see § 1408 of the Fiscal Year 1999 Budget Support Emergency Act of 1998 (D.C. Act 12-401, July 13, 1998, 45 DCR 4794), and § 1408 of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1998 (D.C. Act 12-564, January 12, 1999, 46 DCR 669).

For temporary (90-day) addition of Chapter 11, and abolishment of the Department of Administrative Services, see §§ 1402 to 1406 and 1408 of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1999 (D.C. Act 13-41, March 31, 1999, 46 DCR 3446).

For temporary (90 day) amendment of section, see § 2302 of Fiscal Year 2003 Budget Support Emergency Act of 2002 (D.C. Act 14-453, July 23, 2002, 49 DCR 8026).

For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 12-175.** — Law 12-175, the “Fiscal Year 1999 Budget Support Act of 1998,” was introduced in Council and assigned Bill No. 12-618, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 5, 1998, and June 2, 1998, respectively. Signed by the Mayor on June 23, 1998, it was assigned Act No. 12-399 and transmitted to both Houses of Congress for its review. D.C. Law 12-175 became effective on March 26, 1999.

**Legislative history of Law 18-115.** — For Law 18-115, see notes following § 10-801.

**Legislative history of Law 19-21.** — Law 19-21, the “Fiscal Year 2012 Budget Support Act of 2011”, was introduced in Council and assigned Bill No. 19-203, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 25, 2011, and June 14, 2011, respectively. Signed by the Mayor on July 22, 2011, it was assigned Act No. 19-98 and transmitted to both Houses of Congress for its review. D.C. Law 19-21 became effective on September 14, 2011.

**Short title.** — Short title of title XXIV of Law 14-190: Section 2401 of D.C. Law 14-190 provided that title XXIV of the act may be cited as the Zoning Additional Space Needs and Stipends Amendment Act of 2002.

Short title: Section 1001 of D.C. Law 17-219 provided that subtitle A of title I of the act may be cited as the “Late Fee Avoidance Act of 2008”.

Office of Property Management Establishment Act of 1998: Section 1801 of D.C. Law 12-175 provided that subtitle A of title XVIII of the act may be cited as the “Office of Property Management Establishment Act of 1998.”

**Mayor’s Orders.** — Re-Designation of the District of Columbia Office of Property Management as the District of Columbia Department of Real Estate Services, see Mayor’s Order 2009-131, July 17, 2009 (56 DCR 6884).

**Editor’s notes.** — Sections 1002, 1003 of D.C. Law 17-219 provided:

“Sec. 1002. Responsibility for late fees.

“(a) The Office of Finance and Resource Management and the Office of Property Management shall pay an equal share of any fees incurred by the District of Columbia if both agencies are responsible for the late payment for the consumption of energy commodities, including electricity, natural gas, heating fuel, steam, and water; provided, that if one agency is responsible for the late payment, that agency shall pay the full fee incurred by the District of Columbia.

“(b) Funds used to pay late fees shall not be intra-District funds collected from assessments



to District agencies for the payment of projected fixed-cost expenses.

“Sec. 1003. Applicability. This subtitle shall apply as of October 1, 2008.”

Department of Administrative Services abolished: Section 1808 of D.C. Law 12-175 abolished the Department of Administrative Services, established under Reorganization Plan No. 5 of 1983, pursuant to § 404(b) of the District of Columbia Home Rule Act, (D.C. Code § 1-227(b)). The Department of Administrative Services is abolished as of October 1, 1998.

Section 2402 of D.C. Law 14-190 provided: “The Office of Property Management shall provide additional space within the District government office building located at 441 4th Street, N.W. (‘One Judiciary Square’) to the Office of Zoning (‘OZ’) to address OZ’s increased space requirements. The space to be provided shall be set forth in a plan which shall be submitted by the Mayor to the Council not later than September 1, 2002.”

Section 68 of D.C. Law 19-171 amended this section as it existed prior to its repeal.

## § 10-1001.01. Definitions. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1801a, as added Mar. 16, 2005, D.C. Law 15-238, § 2(a), 51 DCR 10599; Apr. 7, 2006, D.C. Law 16-91, § 108, 52 DCR 10637; Mar. 2, 2007, D.C. Law 16-191, § 130, 53 DCR 6794; Mar. 31, 2011, D.C. Law 18-349, § 3(a), 58 DCR 724; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 15-238.** — Law 15-238, the “Property Management Reform Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-715, which was referred to the Subcommittee on Human Rights, Latino Affairs and Property. The Bill was adopted on first and second readings on September 21, 2004, and October 5, 2004, respectively. Signed by the Mayor on November 1, 2004, it was assigned Act No. 15-578 and transmitted to both Houses of Congress for its review. D.C. Law 15-238 became effective on March 16, 2005.

**Legislative history of Law 16-91.** — Law 16-91, the “Technical Amendments Act of 2005”, was introduced in Council and assigned Bill No. 16-477 which was referred to the Committee on the Whole. The Bill was adopted on first

and second readings on November 1, 2005, and November 15, 2005, respectively. Signed by the Mayor on November 30, 2005, it was assigned Act No. 16-212 and transmitted to both Houses of Congress for its review. D.C. Law 16-91 became effective on April 7, 2006.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 10-801.

**Legislative history of Law 18-349.** — Law 18-349, the “Green Building Technical Corrections, Clarification, and Revision Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-377, which was referred to the Committee Government Operations and the Environment. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 19, 2011, it was assigned Act No. 18-698 and transmitted to both Houses of Congress for its review. D.C. Law 18-349 became effective on March 31, 2011.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

## § 10-1002. Purpose. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1803, 45 DCR 7193; Mar. 11, 2010, D.C. Law 18-115, § 3(b), 57 DCR 886; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Prior Codifications.** — 1981 Ed., § 9-1102.

**Emergency legislation.** — For temporary addition of section, see § 1403 of the Fiscal

Year 1999 Budget Support Emergency Act of 1998 (D.C. Act 12-401, July 13, 1998, 45 DCR 4794), and § 1403 of the Fiscal Year 1999

Budget Support Congressional Review Emergency Act of 1998 (D.C. Act 12-564, January 12, 1999, 46 DCR 669).

For temporary (90-day) addition of Chapter 11, see notes following § 10-1001.

For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 12-175.** — For legislative history of D.C. Law 12-175, see Historical and Statutory Notes following § 10-1001.

**Legislative history of Law 18-115.** — For Law 18-115, see notes following § 10-801.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

## § 10-1003. Functions. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1804, 45 DCR 7193; Dec. 7, 2004, D.C. Law 15-205, § 3102(a), 51 DCR 8441; June 16, 2006, D.C. Law 16-127, § 3(a), 53 DCR 4712; Mar. 2, 2007, D.C. Law 16-191, § 37(a), 53 DCR 6794; Mar. 11, 2010, D.C. Law 18-115, § 3(b), 57 DCR 886; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Prior Codifications.** — 1981 Ed., § 9-1103.

**Emergency legislation.** — For temporary addition of section, see § 1404 of the Fiscal Year 1999 Budget Support Emergency Act of 1998 (D.C. Act 12-401, July 13, 1998, 45 DCR 4794), and § 1404 of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1998 (D.C. Act 12-564, January 12, 1999, 46 DCR 669).

For temporary (90-day) addition of Chapter 11, see notes following § 10-1001.

For temporary (90 day) amendment of section, see § 3102(a) of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) amendment of section, see § 3102(a) of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 12-175.** — For legislative history of D.C. Law 12-175, see Historical and Statutory Notes following § 10-1001.

**Legislative history of Law 15-205.** — For Law 15-205, see notes following § 10-831.

**Legislative history of Law 16-127.** — Law 16-127, the “Government Facility Security Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-388 which was referred to the Committees on the Judiciary and Government Operations. The Bill was adopted on first and second readings on March 7, 2006, and April 4, 2006, respectively. Signed by the Mayor on April 21, 2006, it was assigned Act No. 16-345 and transmitted to both Houses of Congress for its review. D.C. Law 16-127 became effective on June 16, 2006.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 10-801.

**Legislative history of Law 18-115.** — For Law 18-115, see notes following § 10-801.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

**Short title.** — Short title of subtitle A of title III of Law 15-205: Section 3101 of D.C. Law 15-205 provided that subtitle A of title III of the act may be cited as the Government Facility Security Amendment Act of 2004.

## § 10-1004. Transfers. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1805, 45 DCR 7193; Apr. 20, 1999, D.C. Law 12-264, § 63(a), 45 DCR 7193; Mar. 11, 2010, D.C. Law 18-115, § 3(b), 57 DCR 886; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Prior Codifications.** — 1981 Ed., § 9-1104.

**Emergency legislation.** — For temporary

addition of section, see § 1405 of the Fiscal Year 1999 Budget Support Emergency Act of



1998 (D.C. Act 12-401, July 13, 1998, 45 DCR 4794), and § 1405 of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1998 (D.C. Act 12-564, January 12, 1999, 46 DCR 669).

For temporary (90-day) addition of Chapter 11, see notes following § 10-1001.

For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 12-175.** — For legislative history of D.C. Law 12-175, see Historical and Statutory Notes following § 10-1001.

**Legislative history of Law 12-264.** — Law

12-264, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

**Legislative history of Law 18-115.** — For Law 18-115, see notes following § 10-801.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

## § 10-1005. Organization. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806, 45 DCR 7193; Dec. 7, 2004, D.C. Law 15-205, § 3102(b), 51 DCR 8441; June 16, 2006, D.C. Law 16-127, § 3(b), 53 DCR 4712; Mar. 2, 2007, D.C. Law 16-191, § 37(b), 53 DCR 6794; Mar. 11, 2010, D.C. Law 18-115, § 3(c), 57 DCR 886; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Prior Codifications.** — 1981 Ed., § 9-1105.

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 2 of Office of Property Management Reform Temporary Amendment Act of 2003 (D.C. Law 15-57, December 9, 2003, law notification 51 DCR 1792).

For temporary (225 day) addition, see § 2 of Office of Property Management Reform Temporary Amendment Act of 2004 (D.C. Law 15-202, December 7, 2004, law notification 52 DCR 446).

**Emergency legislation.** — For temporary addition of section, see § 1406 of the Fiscal Year 1999 Budget Support Emergency Act of 1998 (D.C. Act 12-401, July 13, 1998, 45 DCR 4794), and § 1406 of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1998 (D.C. Act 12-564, January 12, 1999, 46 DCR 669).

For temporary (90-day) addition of Chapter 11, see notes following § 10-1001.

For temporary (90 day) amendment of section, see § 3102(b) of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) amendment of section, see § 3102(b) of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 12-175.** — For legislative history of D.C. Law 12-175, see Historical and Statutory Notes following § 10-1001.

**Legislative history of Law 15-205.** — For Law 15-205, see notes following § 10-831.

**Legislative history of Law 16-127.** — For Law 16-127, see notes following § 10-1003.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 10-801.

**Legislative history of Law 18-115.** — For Law 18-115, see notes following § 10-801.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

## § 10-1006. Sole source contracting. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806a, as added Mar. 16, 2005, D.C. Law 15-238, § 2(b), 51 DCR 10599; Mar. 11, 2010, D.C. Law 18-115, § 3(b), 57 DCR 886; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)



**Emergency legislation.** — For temporary (90 day) addition, see § 2 of Office of Property Management Reform Emergency Amendment Act of 2004 (D.C. Act 15-453, June 23, 2004, 51 DCR 6726).

For temporary (90 day) addition of sections, see § 2 of Office of Property Management Reform Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-539, October 12, 2004, 51 DCR 9827).

For temporary (90 day) addition of sections, see § 2 of Office of Property Management Reform Second Congressional Review Emergency

Amendment Act of 2004 (D.C. Act 15-756, January 19, 2005, 52 DCR 2293).

For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 15-238.** — For Law 15-238, see notes following § 10-1001.01.

**Legislative history of Law 18-115.** — For Law 18-115, see notes following § 10-801.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

## § 10-1007. Notice and contract summary to the Council on certain contracts [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806b, as added Mar. 16, 2005, D.C. Law 15-238, § 2(b), 51 DCR 10599; Mar. 11, 2010, D.C. Law 18-115, § 3(b), 57 DCR 886; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 15-238.** — For Law 15-238, see notes following § 10-1001.01.

**Legislative history of Law 18-115.** — For Law 18-115, see notes following § 10-801.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

## § 10-1008. Criteria for Council review and approval of certain contracts. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806c, as added Mar. 16, 2005, D.C. Law 15-238, § 2(b), 51 DCR 10599; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 15-238.** — For Law 15-238, see notes following § 10-1001.01.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

## § 10-1009. Contract summary for Council review. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806d, as added Mar. 16, 2005, D.C. Law 15-238, § 2(b), 51 DCR 10599; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 15-238.** — For Law 15-238, see notes following § 10-1001.01.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

## § 10-1010. Representative program. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806e, as added Mar. 16, 2005, D.C. Law 15-238, § 2(b), 51 DCR 10599; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 15-238.** — For Law 15-238, see notes following § 10-1001.01.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

## § 10-1011. Inventory of real property assets. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806f, as added Mar. 16, 2005, D.C. Law 15-238, § 2(b), 51 DCR 10599; Mar. 11, 2010, D.C. Law 18-115, § 3(d), 57 DCR 886; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 18-115.** — For Law 18-115, see notes following § 10-801.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

**Legislative history of Law 15-238.** — For Law 15-238, see notes following § 10-1001.01.

## § 10-1012. Periodic audit of leased properties. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806g, as added Mar. 16, 2005, D.C. Law 15-238, § 2(b), 51 DCR 10599; Mar. 11, 2010, D.C. Law 18-115, § 3(b), 57 DCR 886; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 18-115.** — For Law 18-115, see notes following § 10-801.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

**Legislative history of Law 15-238.** — For Law 15-238, see notes following § 10-1001.01.

## § 10-1012.01. Master Public Facilities Plan. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806g-1, as added July 27, 2010, D.C. Law

18-201, § 3, 57 DCR 4742; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 18-201.** — For Law 18-201, see notes following § 10-801.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

**Editor's notes.** — Section 4 of D.C. Law

18-201 provided that section 3 shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of section 3 of Law 18-201 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by section 3 of Law 18-201, are not in effect.

## § 10-1013. Certain contracting rules. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806h, as added Mar. 16, 2005, D.C. Law 15-238, § 2(b), 51 DCR 10599; Mar. 11, 2010, D.C. Law 18-115, § 3(b), 57 DCR 886; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 15-238.** — For Law 15-238, see notes following § 10-1001.01.

**Legislative history of Law 18-115.** — For Law 18-115, see notes following § 10-801.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

## § 10-1014. Jurisdiction. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806i, as added Mar. 16, 2005, D.C. Law 15-238, § 2(b), 51 DCR 10599; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 15-238.** — For Law 15-238, see notes following § 10-1001.01.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

## § 10-1015. Green building priority. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806j, as added Mar. 8, 2007, D.C. Law 16-234, § 14, 54 DCR 377; Mar. 31, 2011, D.C. Law 18-349, § 3(b), 58 DCR 724; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency

Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 16-234.** — Law



16-234, the “Green Building Act of 2006”, was introduced in Council and assigned Bill No. 16-515, which was referred to Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-590 and transmitted to both Houses of Congress for its review. D.C. Law 16-234 became effective on March 8, 2007.

**Legislative history of Law 18-349.** — For

history of Law 18-349, see notes under § 10-1001.01.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

**Delegation of Authority.** — Delegation of Authority-Green Building Act of 2006, see Mayor’s Order 2007-206, September 21, 2007 (55 DCR 125).

**Editor’s notes.** — Section 48 of D.C. Law 19-171 amended subsection (a) of this section as it existed prior to its repeal.

## § 10-1016. Establishment of District of Columbia Employee Parking Program Fund. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806k, as added Aug. 16, 2008, D.C. Law 17-219, § 1005, 55 DCR 7598; Mar. 25, 2009, D.C. Law 17-353, § 244(a), 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, § 1251, 57 DCR 181; Mar. 11, 2010, D.C. Law 18-115, § 3(a), 57 DCR 886; Sept. 14, 2011, D.C. Law 19-21, §§ 1032(a), 9018, 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 1061 of Fiscal Year 2010 Budget Support Emergency Act of 2009 (D.C. Act 18-187, August 26, 2009, 56 DCR 7374).

For temporary (90 day) amendment of section, see § 1251 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 1251 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 17-219.** — Law 17-219, the “Fiscal Year 2009 Budget Support Act of 2008”, was introduced in Council and assigned Bill No. 17-678, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 13, 2008, and June 3, 2008, respectively. Signed by the Mayor on June 26, 2008, it was assigned Act No. 17-419 and transmitted to both Houses of Congress for its review. D.C. Law 17-219 became effective on August 16, 2008.

**Legislative history of Law 17-353.** — Law 17-353, the “Technical Amendments Act of 2008”, was introduced in Council and assigned Bill No. 17-994 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 15, 2009, it was assigned Act No. 17-687 and transmitted to both Houses of Congress for its review. D.C. Law 17-353 became effective on March 25, 2009.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Legislative history of Law 18-115.** — For Law 18-115, see notes following § 10-801.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

**Short title.** — Short title: Section 1004 of D.C. Law 17-219 provided that subtitle B of title I of the act may be cited as the “District of Columbia Employee Parking Program Fund Establishment Amendment Act of 2008”.

Short title: Section 1250 of D.C. Law 18-111 provided that subtitle Z of title I of the act may be cited as the “Employee-Parking Program Fund Amendment Act of 2009”.

## § 10-1017. Old Naval Hospital Foundation grant authority. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806l, as added Mar. 3, 2010, D.C. Law 18-111, § 1211, 57 DCR 181; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Temporary Addition of Section.** — Section 2 of D.C. Law 17-264 added a section to read as follows: “Sec. 1806k. Old Naval Hospital Foundation grant authority. Subject to appropriations, the Office of Property Management is authorized to make a grant in the amount of up to \$5.5 million to the Old Naval Hospital Foundation for the purposes of renovating and making improvements to the Old Naval Hospital, Carriage House, and adjacent grounds, located at 921 Pennsylvania Avenue, S.E., in accordance with plans and specifications approved by the Office of Property Management and pursuant to a grant agreement between the District and the Old Naval Hospital Foundation.”.

Section 4(b) of D.C. Law 17-264 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2 of Old Naval Hospital Grant Emergency Amendment Act of 2008 (D.C. Act 17-462, July 28, 2008, 55 DCR 8734).

For temporary (90 day) addition, see § 2 of Old Naval Hospital Grant Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-543, October 20, 2008, 55 DCR 11428).

For temporary (90 day) addition, see § 1211 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 1211 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

**Short title.** — Short title: Section 1210 of D.C. Law 18-111 provided that subtitle V of title I of the act may be cited as the “Old Naval Hospital Grant Amendment Act of 2009”.

**Editor’s notes.** — Section 69 of D.C. Law 19-171 made a technical correction to this section as it existed prior to its repeal.

## § 10-1018. Security assessments and implementation at District facilities. [Repealed].

Repealed.

(Mar. 26, 1999, D.C. Law 12-175, § 1806l, as added Apr. 8, 2011, D.C. Law 18-358, § 2, 58 DCR 765; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 1012(a) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 18-358.** — Law 18-358, the “District Property Security Assessment and Implementation Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-1058, which was referred to the Committee on Government Operations and the Environment. The Bill was adopted on first and second readings on December 7, 2010, and

December 21, 2010, respectively. Signed by the Mayor on January 19, 2011, it was assigned Act No. 18-708 and transmitted to both Houses of Congress for its review. D.C. Law 18-358 became effective on April 8, 2011.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 10-1001.

**Editor’s notes.** — Section 49 of D.C. Law 19-171 renumbered D.C. Law 12-175, § 1806l as D.C. Law 12-175, § 1806m, after the section’s repeal by D.C. Law 19-21.



## CHAPTER 10A. DISTRICT FACILITIES PLANNING ADVISORY COMMITTEE.

Sec.  
10-1031. District Facilities Planning Advisory  
Committee.

Sec.  
10-1032. Funding.

**§ 10-1031. District Facilities Planning Advisory Committee.**

(a) There is established a District Facilities Planning Advisory Committee ("Committee"), whose purpose shall be to provide advice, comments, and recommendations to the Council pursuant to subsection (c) of this section.

(b) The Committee shall be composed of 7 members. Three members shall be appointed by the Chairman of the Council, one of whom the Chairman shall designate to serve as chair; one member shall be appointed by the Chair of the Council committee with jurisdiction over the Department of Real Estate Services; one member shall be appointed by the Chair of the Council committee with jurisdiction over the Deputy Mayor for Planning and Economic Development; and 2 members shall be appointed by the Mayor. The Committee may act with a quorum of 4 appointed members. Each member shall be a resident of the District and have demonstrated experience in facility management or program activities in at least one of the fields of real estate, policy and planning, community development, or other field deemed suitable for the purposes of the work of the Committee. The term of an appointment shall be 3 years from the date of appointment. The Chairman of the Council shall have sole and exclusive authority at his or her discretion to remove members of the Committee. The Committee shall annually provide its conclusions and findings to the Council.

(c) The Committee shall perform the following duties:

(1) Review the inventory to be promptly provided by the Department of Real Estate Services of all facilities owned and operated by the District government pursuant to § 10-1011;

(2) Review the audit of leased properties to be promptly provided by the Department of Real Estate Services pursuant to § 10-1012;

(3) Review data and provide advice and comments on the District Facilities Plan, including benchmarks for the District and comparable jurisdictions regarding the number of public facilities maintained by the District government using demand and usage metrics, including facilities per capita and per square mile, and long-term agency facilities needs;

(4) Review and provide advice and comments on a 10-year projected annual average cost for maintaining the current inventory of properties (and other information as may reasonably [be] required for the committee to perform its duties) to be prepared by the Mayor;

(5) Provide advice and comments on standards developed by the Mayor for the location of public facilities, including population density, public needs, accessibility, frequency of use, proximity to similar facilities, opportunity for multiple uses, the long-term cost effectiveness of facility maintenance, and program integration plans;



(6) Provide advice and comments on conclusions prepared by the Mayor on the number of facilities that the District should maintain based on:

- (A) Benchmark comparisons;
- (B) Available and possible sources of funding;
- (C) Program integration plans;
- (D) The long-term facilities needs of District agencies; and
- (E) Other measures which the Committee considers appropriate;

(7) Provide advice and comments on recommendations prepared by the Mayor for renovation, construction, consolidation, and closure of selected facilities based on an analysis conducted;

(8) Provide advice and comments on the appropriate relationship between the District Facilities Plan and other existing planning documents;

(9) Provide advice and comments on Mayoral plans for program integration regarding the impact of the neighborhood places and wraparound schools initiative on facility co-location and investment; and

(10) Provide for broad community input and comment on the District Facilities Plan, any other existing plan, and related inter-program coordination.

(d) No member of the Advisory Committee shall be compensated for time expended in the performance of duties, except to the extent that the member is a District government employee serving as part of his or her existing responsibilities, but members shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of the Advisory Committee's duties pursuant to applicable District government rules and regulations.

(Nov. 13, 2003, D.C. Law 15-39, § 1402, 50 DCR 5668; Mar. 11, 2010, D.C. Law 18-115, § 4, 57 DCR 886.)

**Effect of amendments.** — D.C. Law 18-115 rewrote subsecs. (a), (b), and (c).

**Emergency legislation.** — For temporary (90 day) addition, see § 1402 of Fiscal Year 2004 Budget Support Emergency Amendment Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) addition, see § 1402 of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 10-834.

**Legislative history of Law 18-115.** — For Law 18-115, see notes following § 10-801.

**Short title.** — Short title of title XIV of Law 15-39: Section 1401 of D.C. Law 15-39 provided that title XIV of the act may be cited as the Master Facilities Planning and Program Coordination Advisory Committee Act of 2003.

## § 10-1032. Funding.

The functions of this chapter are to be funded in the amounts of \$1.8 million in Fiscal Year 2004 and \$1.1 million in Fiscal Year 2005 from the Public Planning Capital Project Fund established in § 1-325.11. Of this total amount, not less than \$1.2 million shall be made available to the Department of General Services ("Department"), in consultation with the Office of Planning, for the development of a facility inventory and conditions assessment. Other amounts as required shall be transferred to the Department and other District agencies for the fulfillment of the provisions of this chapter. In all cases, this

work shall be performed without the use of contractors, except where specialized expertise or expedited effort is required.

(Nov. 13, 2003, D.C. Law 15-39, § 1403, 50 DCR 5668; Sept. 26, 2012, D.C. Law 19-171, § 71, 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted “Department of General Services (‘Department’)” for “Office of Property Management (‘OPM’)” in the second sentence; and substituted “the Department” for “OPM” in the third sentence.

**Emergency legislation.** — For temporary (90 day) addition, see § 1403 of Fiscal Year 2004 Budget Support Emergency Amendment Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) addition, see § 2 of the Office of Property Management Reform Emergency Amendment Act of 2002 (D.C. Act 15-121, July 29, 2003, 50 DCR 6616).

For temporary (90 day) addition, see § 1403 of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 10-834.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

# SUBTITLE III. USE OF PUBLIC SPACE.

## CHAPTER 11. RENTAL AND UTILIZATION OF PUBLIC SPACE.

### *Subchapter I. General*

#### PART A

Definitions; Assessment of Government Rent;  
Minor Uses

Sec.

- 10-1101.01. Definitions.
- 10-1101.02. Assessment of rent from United States, District or foreign governments not authorized.
- 10-1101.03. Minor uses without rental payments authorized.

#### PART B

Rental of Public Space on or Above Surface of  
Ground

- 10-1102.01. Regulations authorized; conditions.
- 10-1102.01a. Street festival one-day public space rental.
- 10-1102.02. Payments; refunds.
- 10-1102.03. Use of property subject to the requirements of § 9-113.04.

#### PART C

Rental of Subsurface Space

- 10-1103.01. Permit; conditions; recordation.
- 10-1103.02. Assessment; collection.
- 10-1103.03. Fixed by Council; waiver.
- 10-1103.04. Annual payment required; refunds.
- 10-1103.04a. Overpayments.
- 10-1103.05. Removal of vault — Order by Mayor; failure to remove.
- 10-1103.06. Removal of vault — Notice to owner; immediate action.
- 10-1103.07. Collection of rental payments; failure to make payments.
- 10-1103.08. Use of vault for utility installation or construction.
- 10-1103.09. Vault abutting single- or two-family dwelling exempt from rental charge.

#### PART D

#### General

- 10-1104.01. Regulations authorized.
- 10-1104.02. Insurance requirements.
- 10-1104.03. Service of orders and notices.
- 10-1104.04. Penalties.

Sec.

- 10-1104.05. Deposit of rents collected.
- 10-1104.06. Appropriations.
- 10-1104.07. Separability.
- 10-1104.08. Subchapter not to affect provisions of § 9-113.04.
- 10-1104.09. Effective dates.

### *Subchapter II. Rental of Airspace*

- 10-1121.01. Definitions.
- 10-1121.02. Mayor's authority with respect to use of airspace.
- 10-1121.03. Terms and conditions to be included in leases.
- 10-1121.04. Execution of airspace leases.
- 10-1121.05. Removal or relocation of public or private facilities.
- 10-1121.06. Applicability of zoning and other laws.
- 10-1121.07. Airspace and structures erected thereon deemed real property for purpose of taxation, water and sewer charges; exemptions.
- 10-1121.08. Deposit of rents, fees, taxes, assessments, sewer and water charges; payment of expenditures.
- 10-1121.09. Restoration of airspace upon expiration or termination of lease.
- 10-1121.10. Regulations authorized; penalties.
- 10-1121.11. Federal and District governments authorized to construct airspace structures.
- 10-1121.12. Actions to recover use of leased airspace.
- 10-1121.13. Area exempted from provisions of subchapter.

### *Subchapter III. Rental of Public Structures in Public Space*

- 10-1141.01. Definitions.
- 10-1141.02. Applicability.
- 10-1141.03. Permits for the occupation of public space, public rights of way, and public structures.
- 10-1141.03a. Waiver or reduction of permit fees for the occupation of public space, public rights of way, and public structures.
- 10-1141.04. Rulemaking.
- 10-1141.04a. [Repealed].
- 10-1141.05. Inspection and audit of books and records.
- 10-1141.06. Surcharge authorization.



*Subchapter I. General.*

## PART A.

## DEFINITIONS; ASSESSMENT OF GOVERNMENT RENT; MINOR USES.

**§ 10-1101.01. Definitions.**

As used in this subchapter, unless the context requires otherwise:

- (1) “Mayor” means the Mayor of the District or his designated agent.
- (1A) “Assessed value” means the estimated market value of the real property attributable to the land for purposes of real property taxation as of January 1 preceding the rent year.
- (2) “District” means the District of Columbia.
- (3) “Owner” means:
  - (A) Any person, or any one of a number of persons, in whom is vested all or any part of the beneficial ownership, dominion, or title of property;
  - (B) The committee, conservator, or legal guardian of an owner who is non compos mentis, a minor child, or otherwise under a disability; or
  - (C) A trustee elected or appointed, or required by law, to execute a trust, other than a trustee under a deed of trust to secure the repayment of a loan.
- (4) “Parking” means that area of public space which lies between the property line and the edge of the actual or planned sidewalk which is nearer to such property line, as such property line and sidewalk are shown on the records of the District.
- (5) “Property line” means the line of demarcation between privately owned property fronting or abutting a street and the publicly owned property in the line of such street.
- (6) “Public space” means all the publicly owned property between the property lines on a street, as such property lines are shown on the records of the District, and includes any roadway, tree space, sidewalk, or parking between such property lines.
- (7) “Street” means a public highway as shown on the records of the District, whether designated as a street, alley, avenue, freeway, road, drive, lane, place, boulevard, parkway, circle, or by some other term.
- (8) “Vault” means a structure or an enclosure of space beneath the surface of the public space, including but not limited to tanks for petroleum products, except that the term “vault” shall not include public utility structures, pipelines, or tunnels constructed under the authority of subsection (d) of § 1-301.01, or structures or facilities of the District of Columbia or any structure or facility included in any lease agreement entered into by the Mayor. If such structure or enclosure of space be divided approximately horizontally into 2 or more levels, the term “vault” as used in this subchapter shall be considered as applying to 1 such level only, and each such level shall be considered a separate vault within the meaning of this subchapter.

(Oct. 17, 1968, 82 Stat. 1156, Pub. L. 90-596, title I, § 103; Mar. 2, 2007, D.C.

Law 16-192, § 6013(a), 53 DCR 6899; Dec. 24, 2008, D.C. Law 17-284, § 2(a), 55 DCR 11983.)

**Section references.** — This section is referenced in § 2-351.05, § 10-1141.02, § 10-1202.24, and § 47-305.01.

**Prior Codifications.** — 1981 Ed., § 7-1001.1973 Ed., § 7-902.

**Effect of amendments.** — D.C. Law 16-192, in par. (8), substituted “the District of Columbia or” for “the United States or the District of Columbia, or of any governmental entity or foreign government, or”.

D.C. Law 17-284 added par. (1A).

**Temporary Amendment of Section.** — Section 2(a) of D.C. Law 17-263 added a new 2nd unnumbered paragraph to read as follows: “Assessed value’ means the estimated market value of the real property attributable to the land for purposes of real property taxation as of January 1 preceding the rent year.”

Section 6(b) of D.C. Law 17-263 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 6013(a) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 6013(a) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 6013(a) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment, see § 2(a) of Public Space Rental Fees Emergency Amendment Act of 2008 (D.C. Act 17-460, July 28, 2008, 55 DCR 8729).

**Legislative history of Law 16-192.** — Law 16-192, the “Fiscal Year Budget Support Act of

2006”, was introduced in Council and assigned Bill No. 16-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 9, 2006, and June 6, 2006, respectively. Signed by the Mayor on August 8, 2006, it was assigned Act No. 16-476 and transmitted to both Houses of Congress for its review. D.C. Law 16-192 became effective on March 2, 2007.

**Legislative history of Law 17-284.** — Law 17-284, the “Public Space Rental Fees Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-266 which was referred to the Committees on Public Services and Consumer Affairs and Public Works and the Environment. The Bill was adopted on first and second readings on July 15, 2008, and October 7, 2008, respectively. Signed by the Mayor on October 24, 2008, it was assigned Act No. 17-550 and transmitted to both Houses of Congress for its review. D.C. Law 17-284 became effective on December 24, 2008.

**Mayor’s Orders.** — Establishment of the Public Space Committee, see Mayor’s Order 2009-114, June 18, 2009 (56 DCR 6862).

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-1101.02. Assessment of rent from United States, District or foreign governments not authorized.

Nothing contained in this subchapter shall be construed as requiring the Mayor to assess and collect rent from the government of the District of Columbia for the use, in accordance with the provisions of part B of this subchapter, of public space abutting property owned by any such government or governmental entity, nor shall any such government or governmental entity be subject to the payment of any rent required by this subchapter.

(Oct. 17, 1968, 82 Stat. 1157, Pub. L. 90-596, title I, § 104; Mar. 2, 2007, D.C. Law 16-192, § 6013(b), 53 DCR 6899; Mar. 25, 2009, D.C. Law 17-353, § 139, 56 DCR 1117.)



**Prior Codifications.** — 1981 Ed., § 7-1002. 1973 Ed., § 7-903.

**Effect of amendments.** — D.C. Law 16-192 substituted “the government of the District of Columbia for the use, in accordance with the provisions of part B of this subchapter” for “the government of the United States, the government of the District of Columbia, or any foreign government, for the use in accordance with the provisions of parts B and C of this subchapter”.

D.C. Law 17-353 validated a previously made technical correction.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 6013(b) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 6013(b) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 6013(b) of Fiscal Year 2007 Budget

Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

**Legislative history of Law 16-192.** — For Law 16-192, see notes following § 10-1101.01.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 10-1016.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-1101.03. Minor uses without rental payments authorized.

Notwithstanding any other provisions of this subchapter, the Mayor is authorized, in his judgment and pursuant to regulations adopted and promulgated by the Council of the District of Columbia, to permit the occupancy of public space for minor uses without requiring rental payments when the fixing and collection of rental charges would not be feasible.

(Oct. 17, 1968, 82 Stat. 1157, Pub. L. 90-596, title I, § 105.)

**Cross references.** — Procurement, source selection and contract formation, exemptions, see § 2-303.20.

**Prior Codifications.** — 1981 Ed., § 7-1003. 1973 Ed., § 7-904.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorgani-

zation Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## PART B.

### RENTAL OF PUBLIC SPACE ON OR ABOVE SURFACE OF GROUND.

## § 10-1102.01. Regulations authorized; conditions.

The Council of the District of Columbia is authorized to provide by regulation for the rental of portions of public space on or above the surface of the pavement or the ground, as the case may be, and not actually required for the



use of the general public, for such period of time as the said space may not be so required or for any lesser period; provided, that nothing herein contained shall be construed as requiring the Council to require the payment of rent as a condition to the use of public space: (1) in accordance with the provisions of regulations promulgated under the authority of § 6-404; (2) by a public utility company for the installation and maintenance of any of its equipment or facilities, under permit issued by the District; or (3) for the sale of newspapers of general circulation; provided further, that the proposed rental of public space within the area of the District of Columbia subject to the provisions of §§ 6-611.01 and 6-611.02, shall be submitted to the Commission of Fine Arts in accordance with the provisions of §§ 6-611.01 and 6-611.02. The regulations adopted by the Council of the District of Columbia shall provide that public space rented under the authority of this part shall be rented only to the owner of property fronting and abutting such public space; that any person using such space shall not acquire any right, title, or interest therein; that both the United States and the District of Columbia, and the officers and employees of each of them, shall be held harmless for any loss or damage arising out of the use of such space, or the discontinuance of any such use; that the Mayor may require such space to be vacated upon demand by him and its use discontinued, with or without notice, and with no recourse against either the United States or the District for any loss or damage occasioned by any such requirement; and that if any such use be not discontinued by the time specified by the Mayor, the said Mayor may remove from such space any property left thereon or therein by any person using such space under the authority of this part, at the risk and expense of the owner of the real property abutting such space.

(Oct. 17, 1968, 82 Stat. 1331, Pub. L. 90-596, title II, § 201.)

**Section references.** — This section is referenced in § 10-1102.01a.

**Prior Codifications.** — 1981 Ed., § 7-1004. 1973 Ed., § 7-905.

**Emergency legislation.** — For temporary (90-day) amendment of section, see § 2(a) of the Street Festival One Day Permit Emergency Amendment Act of 1999 (D.C. Act 13-129, August 4, 1999, 46 DCR 6646).

For temporary (90 day) repeal of the Sub-Surface Space Rental Rate Resolution (Res. No. 69-71), see § 6012 of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) repeal of the Sub-Surface Space Rental Rate Resolution (Res. No. 69-71), see § 6012 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) repeal of the Sub-Surface Space Rental Rate Resolution (Res. No. 69-71), see § 6012 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

**Short title.** — Short title: Section 6011 of D.C. Law 16-192 provided that subtitle B of title VI of the act may be cited as the “Public Space Rental Fees Amendment Act of 2006”.

**Editor’s notes.** — Section 6012 of D.C. Law 16-192 provided: “The Sub-Surface Space Rental Rate Resolution of the District of Columbia City Council, effective September 16, 1969 (Res. No. 69-71; 16 DCR 72), is repealed.”

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

**§ 10-1102.01a. Street festival one-day public space rental.**

(a) To participate in a street festival, the lessee of a building that fronts and abuts the closed street may rent, pursuant to § 10-1102.01, the public space immediately fronting and abutting the building which the lessee occupies. This rental of public space shall be subject to the following conditions:

(1) No holder of a license issued pursuant to § 25-104, shall rent public space pursuant to this subsection, except the holder of a retailer's license, Class C or a retailer's license, Class D as defined in subchapter II of Chapter 1 of Title 25. The provisions of this subsection shall not alter the terms and conditions of these licenses in any other way.

(2) Only a lessee who occupies the entire street level of the building, or, where there is no street level, a lessee who occupies either the entire floor immediately above street level or the entire floor immediately below street level may rent the sidewalk in accordance with this subsection.

(3) The rental period pursuant to this section shall begin with the closing of the street in preparation for the street festival and shall end with the reopening of the street, or for 24 hours, whichever is shorter.

(4) Public space rented pursuant to this subsection shall:

(A) Not include any area within the street; and

(B) Be subject to all conditions of § 10-1102.01, except the submission of the proposed rental to the Commission on Fine Arts.

(b) The rent for the use of public space as provided for in subsection (a) of this section shall be \$1.00 per square foot for the duration of the rental period, except the rent by the holder of a retailer's license, Class C or a retailer's license, Class D as defined in subchapter II of Chapter 1 of Title 25, shall be \$2.00 per square foot for the duration of the rental period. Rent shall be paid in advance to the Metropolitan Police Department for the payment of costs associated with the closing of the street for the street festival.

(c) Business associations shall be allowed to obtain permits on behalf of multiple festival permit participants.

(d) For the purposes of this section "street festival" means any event for which a temporary street closing permit has been issued and which meets the following conditions:

(1) The licensee to whom the street closing permit was issued is a nonprofit organization;

(2) The street closed is zoned for primarily retail use; and

(3) The festival uses the street closed primarily to rent to retail vendors.

(Oct. 17, 1968, 82 Stat. 1331, Pub. L. 90-596, title II, § 201a, as added Apr. 3, 2001, D.C. Law 13-258, § 2, 48 DCR 767.)

**Legislative history of Law 13-258.** — Law 13-258, the "Street Festival One Day Public Space Rental Amendment Act of 2000", was introduced in Council and assigned Bill No. 13-798, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on

November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on December 22, 2000, it was assigned Act No. 13-545 and transmitted to both Houses of Congress for its review. D.C. Law 13-258 became effective on April 3, 2001.



§ 10-1102.02. **Payments; refunds.**

The Council of the District of Columbia shall by regulation provide for the payment of rent for the use of public space as authorized by this part. The annual rent for such space shall be a fair and equitable amount fixed by the Council from time to time in accordance with regulations adopted by it, generally establishing categories of use and providing that the rent for each category of use shall bear a reasonable relationship to the assessed value of the privately owned land abutting such space, depending on the nature of the category of use and the extent to which the public space may be utilized for such purpose, but in no event shall the annual rent for the public space so utilized be at a rate of less than 4 per centum per annum of the current assessed value of an equivalent area of the privately owned space immediately abutting the public space so utilized; provided, that the annual rent for public space used as an unenclosed sidewalk cafe shall be \$5 per square foot and the annual rent for public space used as an enclosed sidewalk cafe shall be \$10 per square foot. Unenclosed flower and fruit stands shall be charged the same rate as unenclosed sidewalk cafes, and enclosed flower and fruit stands shall be charged the same rate as enclosed sidewalk cafes. Such rent shall be payable in advance for such periods as may be fixed by the Council. In the event the Mayor requires any person using public space under the authority of this part to vacate all or part of any space for which rent has been paid, the Mayor is authorized to refund so much of such prepaid rent as may be represented by the amount of space so vacated and by the length of time remaining in the period for which rent was paid.

(Oct. 17, 1968, 82 Stat. 1158, Pub. L. 90-596, title II, § 202; Sept. 17, 1982, D.C. Law 4-148, § 5, 29 DCR 3361; Sept. 10, 1992, D.C. Law 9-145, § 101(a), 39 DCR 4895; Aug. 6, 1993, D.C. Law 10-11, § 117, 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 117, 40 DCR 5489.)

**Prior Codifications.** — 1981 Ed., § 7-1005. 1973 Ed., § 7-906.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 117 of Omnibus Budget Support Temporary Act of 1993 (D.C. Law 10-11, August 6, 1993, law notification 40 DCR 6213).

For temporary (225 day) amendment of section, see § 501(b)(1) of Omnibus Budget Support Temporary Act of 1992 (D.C. Law 9-134, July 23, 1992, law notification 39 DCR 5815).

**Emergency legislation.** — For temporary amendment of section, see § 117 of the Omnibus Budget Support Emergency Act of 1993 (D.C. Act 10-32, June 3, 1993, 40 DCR 3658).

For temporary (90-day) amendment of section, see § 2(b) of the Street Festival One Day Permit Emergency Amendment Act of 1999 (D.C. Act 13-129, August 4, 1999, 46 DCR 6646).

**Legislative history of Law 4-148.** — Law 4-148, the “Enclosed Sidewalk Cafe Act of 1982,” was introduced in Council and assigned

Bill No. 4-334, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 8, 1982, and July 6, 1982, respectively. Signed by the Mayor on July 21, 1982, it was assigned Act No. 4-219 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-145.** — Law 9-145, the “Omnibus Budget Support Act of 1992,” was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

**Legislative history of Law 10-25.** — D.C. Law 10-25, the “Omnibus Budget Support Act of 1993,” was introduced in Council and assigned Bill No. 10-165, which was referred to



the Committee of the Whole. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia

Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-1102.03. Use of property subject to the requirements of § 9-113.04.

The Mayor is authorized, with respect to property subject to the requirements of § 9-113.04 [repealed], to allow the same use to be made of such property as, under the authority of this part, he allows to be made of the public space abutting such property. Any such use of such property shall be subject to the same conditions as are applicable to the use of the abutting public space, with the exception of the payment of rent.

(Oct. 17, 1968, 82 Stat. 1158, Pub. L. 90-596, title II, § 203; 1973 Ed., § 7-907.)

**Prior Codifications.** — 1981 Ed., § 7-1006. 1973 Ed., § 7-907.

**References in text.** — Section 9-113.04, referred to in the first sentence was repealed, effective March 10, 1983, by D.C. Law 4-201, § 713. For present provisions regarding the naming of public places, see subchapter IV of Chapter 2 of Title 9.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the Dis-

trict of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## PART C.

### RENTAL OF SUBSURFACE SPACE.

#### § 10-1103.01. Permit; conditions; recordation.

The Mayor is authorized to issue a permit for the use of a vault constructed prior to the effective date of this subchapter, or for the construction of a vault after such effective date, only to the owner of the real property abutting the public space in which such vault is or will be located. The issuance of each such permit shall be conditioned on the prior execution by such owner of an agreement acknowledging, for himself, his heirs and assigns: (1) that no right, title, or interest of the public is thereby acquired, waived, or abridged; (2) that the Mayor may inspect such vault during regular business hours; (3) that the Mayor may introduce or authorize the introduction into or through such vault with, right of entry for inspection, maintenance, and repair, of any water pipe,

gas pipe, sewer, conduit, other pipe, or other public or public utility underground construction, which the Mayor deems necessary in the public interest to place in or through such vault; (4) that such vault will be changed by the owner, or by the District at the expense of such owner, to conform with any change made in the street, roadway, or sidewalk width or grade; and (5) that rental for such vault will be paid to the District as required by this subchapter. A copy of such agreement shall be recorded in the Office of the Recorder of Deeds by and at the expense of such owner.

(Oct. 17, 1968, 82 Stat. 1158, Pub. L. 90-596, title III, § 302.)

**Section references.** — This section is referenced in § 10-1141.02.

**Prior Codifications.** — 1981 Ed., § 7-1007. 1973 Ed., § 7-908.

**Delegation of Authority.** — Delegation of Authority Pursuant to D.C. Law 1-4, an Act to Authorize the Mayor of the District of Columbia to Permit the Use of Public Space Under Dupont Circle in the District of Columbia, see Mayor's Order 2010-183, December 31, 2010 (57 DCR 12644).

**Editor's notes.** — Use of public space under Dupont Circle: See Act of May 22, 1975, D.C. Law 1-4, §§ 101 to 104.

**Change in Government.** — This section

originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-1103.02. Assessment; collection.

The Mayor is authorized and directed to assess and collect rent from the owners of abutting property for any vault located in the public space abutting such property, unless such vault shall have been removed, filled, sealed, or otherwise rendered unusable in a manner satisfactory to the Mayor.

(Oct. 17, 1968, 82 Stat. 1159, Pub. L. 90-596, title III, § 303.)

**Prior Codifications.** — 1981 Ed., § 7-1008. 1973 Ed., § 7-909.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-1103.03. Fixed by Council; waiver.

Each owner of property abutting public space in which a vault is located shall pay an annual rent fixed from time to time by the Council of the District of Columbia for such vault, but such annual rent shall not be less than \$10, and such rent shall be subject to collection from said owner in the manner prescribed by this part, regardless of whether any use is made of such vault, and regardless of the extent of any use; provided, that no rent for any rental year for a vault shall be charged to the owner of abutting property if said



owner, prior to July 1st of such year, has notified the Mayor in writing that he has abandoned such vault and has performed such work as may be required by the District in connection with the sealing off or filling of such vault, or both.

(Oct. 17, 1968, 82 Stat. 1159, Pub. L. 90-596, title III, § 304.)

**Prior Codifications.** — 1981 Ed., § 7-1009. 1973 Ed., § 7-910.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-1103.04. Annual payment required; refunds.

(a) Except as provided in subsections (d) and (d-1) of this section, the owner of property abutting public space in which any vault is located, as such owner may be recorded in the real estate assessment records of the District, shall pay the rent established in accordance with this part for such vault. Such rent shall be payable annually for the year commencing July 1st and ending the following June 30th, and shall be payable in full prior to the beginning of such year. In the case of vaults constructed between July 1st and January 1st of any year, one-half of the annual rent for any such vault, shall be payable in full prior to the 1st of January immediately following the completion of such vault. In the case of vaults constructed between January 1st and July 1st of the succeeding year, no rent shall be charged for any vault completed within such period, but the owner of the property abutting the public space in which such vault is located shall, prior to the 1st of July immediately following the completion of any such vault, pay in full the annual rent for such vault, for the rental year commencing on such July 1st. Interest at the rate of 1 per centum for each month or part thereof shall be charged in every case in which rent is not paid on or before the date on which any payment required by this section shall become due.

(b) In the event the Mayor requires or allows any person using subsurface public space under the authority of this part to vacate, voluntarily or involuntarily, all or part of any space for which rent has been paid, the Mayor is authorized to refund so much of such prepaid rent as may be represented by the amount of space so vacated and by the length of time remaining in the period for which rent was paid; provided, that the Mayor may deduct from such prepayment any amount due the District in compensation for expenses to the District in connection with the use or abandonment of said space.

(c) Each level of a vault shall be treated as a separate vault for purposes of computing annual rent. Fuel oil tanks shall be considered as single level vaults. Annual rental shall be computed on the basis of the assessed value ("A.V.") per square foot of the abutting land multiplied by the area of the vault level in square feet ("Area") multiplied by a utilization factor ("U.F."), otherwise expressed as (A.V.) x (Area) x (U.F.).



The utilization factors shall be:

- (1) First Level: One and two-tenths percent (1.2%);
- (2) Each Level Thereafter: Three-tenths of one percent (0.30%).

(d)(1) Notwithstanding subsection (a) of this section, an owner of property, including air rights, abutting public space occupied by a vault constructed under the portions of F Street, N.W., and G Street, N.W., between 2nd Street, N.W., and 3rd Street, N.W., and the portions of 2nd Street, N.W., and 3rd Street, N.W., between F Street, N.W., and G Street, N.W., shall not be required to pay the rent required by subsection (a) of this section during the period described in paragraph (2) of this subsection if:

(A) The vault abuts and is constructed as part of the improvements constructed pursuant to the land disposition agreement to be entered into pursuant to the Center Leg Freeway (Interstate 395) Fee and Air Rights Disposition Emergency Approval Resolution of 2007, effective July 10, 2007 (Res. 17-291; 54 DCR 7461) ("Center Leg improvements");

(B) The owner (or a previous owner) has reconstructed F Street, N.W., and G Street, N.W., between 2nd Street, N.W., and 3rd Street, N.W. ("reconstructed streets") in accordance with the standards and specifications of the District Department of Transportation and at no cost to the District; and

(C) The owner agrees to maintain the reconstructed streets at no cost to the District.

(2) A rent waiver granted under this subsection shall commence on the date that the Mayor accepts the reconstructed streets and shall terminate 14 calendar days after the date of a determination by that Mayor that:

(A) The Center Leg improvements have been substantially rebuilt or demolished for reasons other than fire, collapse, explosion, or act of God;

(B) The owner has failed to maintain the reconstructed streets in a safe condition and at no cost to the District, after such notice and opportunity to cure, if any, as may be provided in the permit; or

(C) The owner has violated a condition under which its vault construction permit was issued, after such notice and opportunity to cure, if any, as may be provided in the permit.

(d-1) Notwithstanding subsection (a) of this section, the owner of Lot 1 in Square 1048-S ("property") shall not be required to pay the rent required by subsection (a) of this section for any vault occupying the Virginia Avenue right-of-way abutting the property and constructed after July 23, 2010.

(e) The owner shall have at least 30 days from the date of issuance of a bill to pay the rent.

(Oct. 17, 1968, 82 Stat. 1159, Pub. L. 90-596, title III, § 305; Mar. 2, 2007, D.C. Law 16-192, § 6013(c), 53 DCR 6899; Oct. 22, 2008, D.C. Law 17-253, § 3, 55 DCR 9270; Dec. 24, 2008, D.C. Law 17-284, § 2(b), 55 DCR 11983; July 23, 2010, D.C. Law 18-198, § 4, 57 DCR 4528; Jan. 12, 2012, D.C. Law 19-78, § 2, 58 DCR 10102.)

**Prior Codifications.** — 1981 Ed., § 7-1010.  
1973 Ed., § 7-911.

**Effect of amendments.** — D.C. Law 16-192 added subsec. (c).

D.C. Law 17-253, in subsec. (a), inserted "Except as provided in subsec. (d) of this section,"; and added subsec. (d).

D.C. Law 17-284, in subsec. (c), substituted

“One and two-tenths percent (1.2%)” for “One and eight-tenths percent (1.8%)” and “Three-tenths of one percent (0.30%)” for “Forty-fifth of one percent (0.45%)”; and added subsec. (e).

D.C. Law 18-198, in subsec. (a), substituted “Except as provided in subsections (d) and (d-1) of this section” for “Except as provided in subsection (d) of this section”; and added subsec. (d-1).

D.C. Law 19-78 added subsec. (d)(3).

**Temporary Amendment of Section.** — Section 2(b) of D.C. Law 17-263, in subsec. (c), substituted “One and two-tenths percent (1.2%)” for “One and eight-tenths percent (1.8%)” and “Three-tenths of one percent (0.30%)” for “Forty-fifth of one percent (0.45%)”; and added subsec. (d) to read as follows: “(d) The owner shall have at least 30 days from the date of issuance of a bill to pay the rent.”

Section 6(b) of D.C. Law 17-263 provided that the act shall expire after 225 days of its having taken effect.

**Temporary Addition of Section.** — Section 2(c) of D.C. Law 17-263 added a section to read as follows:

“Sec. 305a. Overpayments.

“(a) If there is a payment of a rent that results in an overpayment, the overpayment shall be credited against other rent periods owed.

“(b) The Mayor shall refund the rent payment less any other rent owing; provided, that the refund shall not be allowed after 3 years from the date the rent payment was made.

“(c) The owner may file a claim for a refund in the manner prescribed by the Mayor.

“(d) The District shall pay interest on the overpayment beginning 90 days after the receipt of the claim for refund; provided, that for the rent originally due on June 30, 2008, interest on the overpayment shall not accrue before 180 days from the receipt of the claim for refund.

“(e) The interest payable by the District under subsection (d) of this section shall be at the rate provided in D.C. Official Code § 47-3310(c).

“(f) The Mayor shall issue a final decision concerning the claim for a refund within 180 days from the date that the claim was filed. The owner may, within 45 days from either the date of the final decision or the expiration of the 180 days if no final decision issues, file suit in the Superior Court of the District of Columbia in the same manner and to the same extent as provided in D.C. Official Code §§ 47-3303 and 47-3304; provided, that the rent, including any interest, shall have first been paid.”

Section 6(b) of D.C. Law 17-263 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 6013(c) of

Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 6013(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 6013(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment, see § 2(b) of Public Space Rental Fees Emergency Amendment Act of 2008 (D.C. Act 17-460, July 28, 2008, 55 DCR 8729).

For temporary (90 day) addition, see § 2(c) of Public Space Rental Fees Emergency Amendment Act of 2008 (D.C. Act 17-460, July 28, 2008, 55 DCR 8729).

**Legislative history of Law 16-192.** — For Law 16-192, see notes following § 10-1101.01.

**Legislative history of Law 17-253.** — Law 17-253, the “Center Leg Freeway (Interstate 395) Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-717 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-500 and transmitted to both Houses of Congress for its review. D.C. Law 17-253 became effective on October 22, 2008.

**Legislative history of Law 17-284.** — For Law 17-284, see notes following § 10-1101.01.

**Legislative history of Law 18-198.** — Law 18-198, the “Closing of Public Streets Adjacent to Square 1048-S (S.O. 09-11792) Act of 2010”, was introduced in Council and assigned Bill No. 18-694, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 20, 2010, and May 4, 2010, respectively. Signed by the Mayor on May 19, 2010, it was assigned Act No. 18-410 and transmitted to both Houses of Congress for its review. D.C. Law 18-198 became effective on July 23, 2010.

**Legislative history of Law 19-78.** — Law 19-78, the “Vault Tax Clarification Amendment Act of 2011”, was introduced in Council and assigned Bill No. 19-21, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 4, 2011, and November 1, 2011, respectively. Signed by the Mayor on November 21, 2011, it was assigned Act No. 19-238 and transmitted to both Houses of Congress for its review. D.C. Law 19-78 became effective on January 12, 2012.

**Change in Government.** — This section originated at a time when local government



powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the

District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-1103.04a. Overpayments.

(a) If there is a payment of a rent that results in an overpayment, the overpayment shall be credited against other rent periods owed.

(b) The Mayor shall refund the rent payment less any other rent owing; provided, that the refund shall not be allowed after 3 years from the date the rent payment was made.

(c) The owner may file a claim for a refund in the manner prescribed by the Mayor.

(d) The District shall pay interest on the overpayment beginning 90 days after the receipt of the claim for refund; provided, that for the rent originally due on June 30, 2008, interest on the overpayment shall not accrue before 180 days from the receipt of the claim for refund.

(e) The interest payable by the District under subsection (d) of this section shall be at the rate provided in § 47-3310(c).

(f) The Mayor shall issue a final decision concerning the claim for a refund within 180 days from the date that the claim was filed. The owner may, within 45 days from either the date of the final decision or the expiration of the 180 days if no final decision issues, file suit in the Superior Court of the District of Columbia in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304; provided, that the rent, including any interest, shall have first been paid.

(Oct. 17, 1968, 82 Stat. 1159, Pub. L. 90-596, title III, § 305a, as added Dec. 24, 2008, D.C. Law 17-284, § 2(c), 55 DCR 11983.)

**Legislative history of Law 17-284.** — For Law 17-284, see notes following § 10-1101.01.

**Editor's notes.** — Section 4 of D.C. Law

17-284 provided that sections 2 and 3 shall apply as of July 1, 2008.

### § 10-1103.05. Removal of vault — Order by Mayor; failure to remove.

(a) Whenever the Mayor determines that any vault is unsafe or is not in use, or the space occupied by such vault is required for street improvements, or the construction or extension of sewers, water mains, other public works, or public utility facilities, the Mayor is authorized to serve upon the owner of property abutting public space occupied by such vault an order requiring such owner to remove in whole or in part, reconstruct, repair, or close such vault by filling, sealing, or otherwise rendering unusable in a manner satisfactory to the Mayor. The failure or refusal of any such owner to comply with such order of the Mayor within the time specified in such order shall constitute a violation of this subchapter.



(b) In the event that any owner of property abutting an unused or unsafe vault fails to remove in whole or in part, reconstruct, repair, or close the same by filling, sealing, or otherwise rendering unusable in a manner satisfactory to the Mayor within the time specified by him, the Mayor is authorized to apply to the Superior Court of the District of Columbia for, and the said Court is hereby authorized to issue, an order empowering the Mayor to enter upon the property of such owner for the purpose of performing such work as may be necessary in connection with the removal, reconstruction, repair, or closure of such vault, and the District and its officers and employees shall not be liable for any damage to real or personal property which may result from the performance of any such work, other than such damage as may be caused by the gross negligence of the District or of any of its officers or employees. Process in connection with the application for such order shall be served on the owner in accordance with the rules of said Court relating to the service of process in civil actions. In the event such owner is not to be found in the District after reasonable search and an affidavit to this effect is made on behalf of the District, such process may be served by publications for 1 day each week for 3 consecutive weeks in a newspaper of general circulation in the District, and, if service of process is by publication, a copy of such process and publication shall be sent to such owner by certified mail at his last known address as recorded in the real estate assessment records of the District.

(Oct. 17, 1968, 82 Stat. 1160, Pub. L. 90-596, title III, § 306; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a).)

**Prior Codifications.** — 1981 Ed., § 7-1011. 1973 Ed., § 7-912.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## **§ 10-1103.06. Removal of vault — Notice to owner; immediate action.**

Notwithstanding the provisions of the preceding section, whenever the Mayor finds that any vault or vault opening in such condition as to be imminently dangerous to persons or property, he shall immediately notify the owner, agent, or other person in charge of the private property abutting the public space in which such vault or vault opening is located, to cause such vault or vault opening to be made safe and secure. The person or persons so notified shall be allowed until 12:00 noon of the day following the service of such notice in which to commence making such vault or vault opening safe and secure; provided, that in a case where the public safety requires immediate action the Mayor may enter upon the private property abutting the public space in which such vault or vault opening is located, with such workmen and assistants as may be necessary, and cause such vault or vault opening to be made safe and

secure. In any case in which the Mayor performs any work under the authority of this section, the cost to the District of performing such work shall be charged against the private property abutting the public space in which such vault or vault opening is located, and shall be collected in the manner provided by § 10-1103.07.

(Oct. 17, 1968, 82 Stat. 1160, Pub. L. 90-596, title III, § 307.)

**Prior Codifications.** — 1981 Ed., § 7-1012. 1973 Ed., § 7-913.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-1103.07. Collection of rental payments; failure to make payments.

(a) The Mayor shall take such action as he in his discretion considers necessary or desirable to secure the payment to the District of rents due and payable on vaults; interest on late rental payments; the cost of any advertising required by this part; the cost to the District of sealing off, removing in whole or in part, filling, reconstructing, repairing, or closing a vault or vault opening, or performing any other service in connection therewith; and interest at the rate of 1 per centum per month or part thereof in every case in which payment to the District for the cost of performing work authorized by this part is not made within 30 days after a bill for such cost shall have been rendered.

(b) Charges authorized to be made by this part and not paid within 90 days after the close of the fiscal year in which such charges accrue shall be levied by the Mayor as a tax against the property abutting the public space in which a vault is located, such tax to be collected as provided in this section. Such tax shall include, without limitation, rents due and payable on vaults, interest on late rental payments, costs for sealing off, removing in whole or in part, filling, repairing, reconstructing, or closing a vault or vault opening, interest on late payments of such costs, and any advertising required by this part. The tax authorized to be levied and collected under this section may be paid without interest within 60 days from the date such tax was levied. Interest of one-half of 1 per centum for each month or part thereof shall be charged on all unpaid amounts from the expiration of 60 days from the date such tax was levied. Any such tax may be paid in 3 equal installments with interest thereon. If any such tax or part thereof shall remain unpaid after the expiration of 2 years from the date such tax was levied, the property against which said tax was levied may be sold for such tax or unpaid portion thereof with interest and penalties thereon at the next ensuing annual tax sale in the same manner and under the same conditions as property sold for delinquent general real estate taxes, if said tax with interest and penalties thereon shall not have been paid in full prior to said sale.



(Oct. 17, 1968, 82 Stat. 1160, Pub. L. 90-596, title III, § 308.)

**Section references.** — This section is referenced in § 10-1103.06 and § 10-1103.08.

**Prior Codifications.** — 1981 Ed., § 7-1013. 1973 Ed., § 7-914.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorgani-

zation Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-1103.08. Use of vault for utility installation or construction.

(a) The Mayor is authorized to require that the use of a vault occupied or used under the authority of this subchapter shall be subject to the condition that the District shall have the right at any time to install or construct under, over, or through said vault any water pipe, gas pipe, sewer, conduit, other pipe, or other public or public utility underground construction that the Mayor may consider it necessary in the public interest to place in the space occupied by such vault, without compensation to the owner of the private property abutting the space in which such vault is located or to the person occupying or using such vault. Each person using or occupying a vault, upon notice from the Mayor that a water pipe, gas pipe, sewer, conduit, other pipe, or other public or public utility underground construction is to be introduced in the space occupied by such vault, shall commence to move, and forthwith remove, if necessary, any boiler, pipe, wall, beam, machinery, or construction in or pertaining to said vault, or any fixture or other thing therein, without cost to the District, so as to leave a space clear and sufficient in the judgment of the Mayor for the introduction and maintenance of any such underground construction or installation. The Mayor is further authorized to require each applicant for a permit to construct a vault in public space, as a condition precedent to the issuance of the permit, to agree for himself and his heirs and assigns that the Mayor shall have the right to enter upon the premises at any time for the inspection and proper maintenance or repair of any public underground construction or installation in such vault, and that in case there is any change in the street, roadway, or sidewalk above such vault, the vault shall be subject to a corresponding change, as directed by the Mayor, without expense to the District of Columbia.

(b) In the event a person occupying or using a vault under the authority of this subchapter shall fail or refuse to perform or to permit the performance of any work required by the Mayor under the authority of subsection (a) of this section, the Mayor is authorized to apply to the Superior Court of the District of Columbia for, and said Court is hereby authorized to issue, an order empowering the Mayor to enter upon the private property abutting the public space in which such vault is located for the purpose of performing such work as may be necessary in connection with the construction or installation in such public space of any water pipe, gas pipe, sewer, conduit, other pipe, or other



underground construction or installation that the Mayor may consider it necessary or desirable to place in such space, and the District and its officers and employees shall not be liable for any damage to real or personal property which may result from the performance of any such work, other than such damage as may be caused by the gross negligence of the District or of any of its officers or employees. Process in connection with the application for such order shall be served on the owner in accordance with the rules of said Court relating to the service of process in civil actions. In the event such owner is not to be found in the District after reasonable search and an affidavit to this effect is made on behalf of the District, such process may be served by publication for 1 day each week for 3 consecutive weeks in a newspaper of general circulation in the District, and, if service of process is by publication, a copy of such process and publication shall be sent to such owner by certified mail at his last known address as recorded in the real estate assessment records of the District. The cost to the District of performing such work, including, without limitation, the reasonable cost to the District of securing the court order authorized by this subsection and any advertising in connection therewith, shall be a charge which may be levied by the Mayor as a tax against the property abutting the public space in which a vault is located, to be collected in the manner authorized by § 10-1103.07.

(Oct. 17, 1968, 82 Stat. 1161, Pub. L. 90-596, title III, § 309; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a).)

**Prior Codifications.** — 1981 Ed., § 7-1014. 1973 Ed., § 7-915.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-1103.09. Vault abutting single- or two-family dwelling exempt from rental charge.

Nothing contained in this part shall be construed as authorizing the Council of the District of Columbia to impose a rental charge for the use of any vault abutting real property on which is located a single- or two-family dwelling occupied solely for residential purposes, but any such vault shall otherwise be subject to the provisions of this part.

(Oct. 17, 1968, 82 Stat. 1162, Pub. L. 90-596, title III, § 310.)

**Prior Codifications.** — 1981 Ed., § 7-1015. 1973 Ed., § 7-916.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorgani-

zation Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C.

Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## PART D.

### GENERAL.

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#### § 10-1104.01. Regulations authorized.

The Council of the District of Columbia after public hearing is authorized to make and promulgate regulations to carry out the purposes of this subchapter. The regulations initially adopted by the Council under the authority of this section to carry out the purposes of part C of this subchapter shall become effective on the effective date of such sections, if, not less than 10 days prior to such date, the Council has adopted such regulations and printed a notice of such adoption in a newspaper of general circulation in the District. Otherwise, the regulations adopted by the Council under the authority of this section shall become effective 10 days after notice of their adoption has been printed in a newspaper of general circulation in the District.

(Oct. 17, 1968, 82 Stat. 1162, Pub. L. 90-596, title IV, § 401.)

**Prior Codifications.** — 1981 Ed., § 7-1016. 1973 Ed., § 7-917.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### § 10-1104.02. Insurance requirements.

The Mayor shall, in connection with authorizing the use of any public space under the authority of this subchapter, require the person authorized to use such space, prior to any such use, to secure a policy of public liability and property damage insurance or other acceptable security providing for such minimum limits of liability as may be required by the Mayor. Any such insurance policy shall include the District and its officers and employees as additional parties insured and shall be cancellable only after 30 days written notice of such cancellation has been received by the Mayor. No such use of public space shall be authorized or continued for any period unless such insurance or other security is maintained in full force and effect during that period. Nothing herein contained shall be construed as requiring either the United States or the District to secure a policy of public liability and property damage insurance or other security covering any use of public space by either of the said governments under the authority of this subchapter.

(Oct. 17, 1968, 82 Stat. 1162, Pub. L. 90-596, title IV, § 402.)



**Prior Codifications.** — 1981 Ed., § 7-1017. 1973 Ed., § 7-918.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-1104.03. Service of orders and notices.

(a) Any order or notice required by this subchapter to be served shall be deemed to have been served when served by any of the following methods:

(1) When forwarded by certified mail to the last known address of the owner as recorded in the real estate assessment records of the District, with return receipt, and such receipt shall constitute prima facie evidence of service upon such owner if such receipt is signed either by the owner or by a person of suitable age and discretion located at such address; provided, that valid service upon the owner shall be deemed effected:

(A) If such order or notice shall be refused by the owner and not delivered for that reason; or

(B) When delivered to the person to be notified; or

(C) When left at the usual residence or place of business of the person to be notified with a person of suitable age and discretion then resident or employed therein; or

(D) If no such residence or place of business can be found in the District by reasonable search, then if left with any person of suitable age and discretion employed at the office of any agent of the person to be notified, which agent has any authority or duty with reference to the land or tenement to which said order or notice relates; or

(E) If any such order or notice forwarded by certified mail be returned for reasons other than refusal, or if personal service of any such order or notice, as hereinbefore provided, cannot be effected, then if published for 1 day each week for 3 consecutive weeks in a daily newspaper published in the District; or

(F) If by reason of an outstanding unrecorded transfer of title the name of the owner in fact cannot be ascertained beyond a reasonable doubt, then if served on the owner of record in a manner hereinbefore provided.

(2) Any order or notice to a corporation shall, for the purposes of this subchapter, be deemed to have been served on such corporation if served on the president, secretary, treasurer, general manager, or any principal officer of such corporation in the manner hereinbefore provided for the service of orders or notices on natural persons holding property in their own right; and orders or notices to a foreign corporation shall, for the purposes of this subchapter, be deemed to have been served if served personally on any agent of such corporation, or if left with any person of suitable age and discretion residing at the usual residence or employed at the usual place of business of such agent in the District.

(b) In case such order or notice is served by any method other than personal service, notice shall also be sent to the owner by ordinary mail.



(Oct. 17, 1968, 82 Stat. 1163, Pub. L. 90-596, title IV, § 403.)

**Prior Codifications.** — 1981 Ed., § 7-1018. 1973 Ed., § 7-919.

## § 10-1104.04. Penalties.

Any person who shall violate any provision of this subchapter shall be punished by a fine not exceeding \$300 or by imprisonment for not more than 10 days. In addition, such regulations as may be adopted by the Council of the District of Columbia under the authority of this subchapter may provide for the imposition of a fine of not more than \$300 or imprisonment for not more than 10 days for each and every day any public space is used or occupied in a manner or for a purpose specifically prohibited by the said regulations.

(Oct. 17, 1968, 82 Stat. 1163, Pub. L. 90-596, title IV, § 404.)

**Prior Codifications.** — 1981 Ed., § 7-1019. 1973 Ed., § 7-920.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-1104.05. Deposit of rents collected.

Rent paid for the use of public space under the authority of this subchapter shall be deposited to the credit of such special funds or General Fund of the District in such proportions as the Mayor shall, in his discretion, determine.

(Oct. 17, 1968, 82 Stat. 1164, Pub. L. 90-596, title IV, § 405.)

**Prior Codifications.** — 1981 Ed., § 7-1020. 1973 Ed., § 7-921.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-1104.06. Appropriations.

Appropriations to carry out the purposes of this subchapter are hereby authorized.

(Oct. 17, 1968, 82 Stat. 1164, Pub. L. 90-596, title IV, § 406.)

**Prior Codifications.** — 1981 Ed., § 7-1021. 1973 Ed., § 7-922.

## § 10-1104.07. Separability.

If any provision of this subchapter or of the regulations promulgated under

the authority of this subchapter is held invalid, such invalidity shall not affect other provisions either of this subchapter or of the said regulations which can be effected without the invalid provisions, and to this end the provisions of this subchapter and the said regulations are separable.

(Oct. 17, 1968, 82 Stat. 1164, Pub. L. 90-596, title IV, § 407.)

**Prior Codifications.** — 1981 Ed., § 7-1022. 1973 Ed., § 7-923.

## § 10-1104.08. Subchapter not to affect provisions of § 9-113.04.

Nothing contained in this subchapter shall be construed to affect in any manner the provisions of § 9-113.04 [repealed] with respect to streets heretofore or hereafter dedicated in accordance with the provisions of such section, and to make use of the parking on any such street in accordance with the terms of the 4th proviso of such section, relating to the height of parking and the projection of buildings beyond the building line, the District's right-of-way through said parking for sewers and water mains free of cost, and the use of the parking by the District for the construction of sidewalks.

(Oct. 17, 1968, 82 Stat. 1164, Pub. L. 90-596, title IV, § 408; 1973 Ed., § 7-924.)

**Prior Codifications.** — 1981 Ed., § 7-1023. 1973 Ed., § 7-924.

**References in text.** — Section 7-117 referred to in the first sentence was repealed,

effective March 10, 1983, by D.C. Law 4-201, § 713. For present provisions regarding the naming of public places, see subchapter IV of Chapter 4 of this title.

## § 10-1104.09. Effective dates.

Parts A and D of this subchapter shall take effect on the date of approval of this subchapter. Part B of this subchapter shall take effect the 1st day of the 1st month which occurs more than 30 days after the Council of the District of Columbia has first adopted and promulgated regulations to carry out the purposes of such sections. Part C of this subchapter shall take effect on the 1st day of July which occurs 3 months or more after the date of approval of this subchapter.

(Oct. 17, 1968, 82 Stat. 1164, Pub. L. 90-596, title IV, § 409.)

**Prior Codifications.** — 1981 Ed., § 7-1024. 1973 Ed., § 7-925.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

*Subchapter II. Rental of Airspace.***§ 10-1121.01. Definitions.**

As used in this subchapter:

- (1) The term "Mayor" means the Mayor of the District of Columbia.
- (2) The term "District" means the District of Columbia.
- (3) The term "airspace" means the space above and below a street or alley under the jurisdiction of the Mayor.

(Oct. 17, 1968, 82 Stat. 1166, Pub. L. 90-598, § 2.)

**Section references.** — This section is referenced in § 10-1202.24.

**Prior Codifications.** — 1981 Ed., § 7-1031. 1973 Ed., § 7-941.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorgani-

zation Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

**CASE NOTES.****In general.**

Board of Zoning Adjustment was required to consider effects on surrounding neighborhood of street closings, pedestrian bridges and height restriction relief proposals in university's campus development plan, even though Board did not have jurisdiction to approve such proposals. D.C. Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

Board of Zoning Adjustment's failure to consider effects of proposed street closings, pedestrian bridges and relief from height restrictions in university's campus development plan rendered Board's findings inadequate and legally insufficient to support ultimate conclusions underlying approval of plan, requiring remand. D.C. Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

**§ 10-1121.02. Mayor's authority with respect to use of airspace.**

The Mayor, in conformity with the comprehensive plan for the National Capital prepared under § 2-1003, may:

- (1) Enter into leases for the use of airspace in the District to an extent not inconsistent with the use, operation, and maintenance of, any street or alley;
- (2) Use airspace for such public purposes as are authorized by law;
- (3) Enter into agreements with the federal government for the purpose of receiving grants or other financial assistance under the federal programs in connection with the construction, use or operation of any structure in airspace; and
- (4) Enter into agreements with the federal government to enable the federal government to construct federal buildings in the space above and below any street or alley, title to which is in the District.

(Oct. 17, 1968, 82 Stat. 1166, Pub. L. 90-598, § 3.)



**Prior Codifications.** — 1981 Ed., § 7-1032, 1973 Ed., § 7-942.

**Mayor's Orders.** — District of Columbia Public Space Committee established: See Mayor's Order 83-54, February 17, 1983.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorgani-

zation Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

#### CASE NOTES

##### In general.

Board of Zoning Adjustment was required to consider effects on surrounding neighborhood of street closings, pedestrian bridges and height restriction relief proposals in university's campus development plan, even though Board did not have jurisdiction to approve such proposals. D.C. Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

Board of Zoning Adjustment's failure to consider effects of proposed street closings, pedestrian bridges and relief from height restrictions in university's campus development plan rendered Board's findings inadequate and legally insufficient to support ultimate conclusions underlying approval of plan, requiring remand. D.C. Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

### § 10-1121.03. Terms and conditions to be included in leases.

Any lease of airspace entered into under this subchapter shall provide:

- (1) That such airspace shall not be used to deprive any real property not owned by the lessee of easements of light, air, and access;
- (2) For a clearance of at least 15 feet between the recorded grade of a street or alley and the lowest portion of any structure (other than supporting columns) constructed over such street or alley;
- (3) That upon the expiration or termination of the lease of airspace the Mayor may require (at the expense of the lessee or his successor in interest) the removal of any structure constructed or erected in such airspace and the restoration of such airspace to its condition prior to the construction or erection of such structure;
- (4) That all the rights, duties, terms, conditions, agreements, and covenants set forth and contained in such lease shall run with the abutting real property owned by the lessee and shall apply to the lessee, his heirs, legal representatives, successors, and assignees;
- (5) That the lessee shall, at his expense, record a copy of the lease in the Office of the Recorder of Deeds of the District of Columbia;
- (6) For the payment of such rents and fees, and the posting of such bond or such other security, by the lessee, as the Mayor determines to be necessary or desirable; and
- (7) For such other terms and conditions as the Mayor determines to be necessary or desirable.

(Oct. 17, 1968, 82 Stat. 1166, Pub. L. 90-598, § 4.)

**Section references.** — This section is referenced in § 10-1121.11.

**Prior Codifications.** — 1981 Ed., § 7-1033. 1973 Ed., § 7-943.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorgani-

zation Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-1121.04. Execution of airspace leases.

The Mayor may execute a lease of airspace under this subchapter if:

(1) The lessee of the airspace has a fee simple title to the real property abutting such airspace and the lease is for airspace which lies only within the frontages of such abutting real property which are directly opposite;

(2) The Zoning Commission of the District of Columbia, after public hearing and after securing the advice and recommendations of the National Capital Planning Commission, has determined the use to be permitted in such airspace and has established regulations applicable to the use of such airspace consistent with regulations applicable to the abutting privately owned property, including limitations and requirements respecting the height of any structure to be erected in such airspace, offstreet parking and floor area ratios applicable to such structure, and easements of light, air, and access;

(3) The lessee has submitted to the Mayor, for his review and approval, plans, elevations, sections, a description of the texture, material, and method of construction of the exterior walls, and a scale model, of any structure to be erected in such airspace;

(4) The Mayor with respect to any structure proposed to be constructed in an area subject to §§ 6-611.01 and 6-611.02, or §§ 6-1201 to 6-1205 has submitted to the Commission of Fine Arts for its review and recommendations, plans, elevations, sections, a description of the texture, material, and method of construction of the exterior walls, and a scale model, of any such structure; and

(5) The Mayor, with respect to any structure proposed to be constructed over space utilized or to be utilized for the construction and operation of the subway of the Washington Metropolitan Area Transit Authority, has submitted to the Authority for its review and recommendations the plans, elevations, sections, and a scale model of any such structure.

(Oct. 17, 1968, 82 Stat. 1167, Pub. L. 90-598, § 5.)

**Prior Codifications.** — 1981 Ed., § 7-1034. 1973 Ed., § 7-944.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.



## CASE NOTES

**In general.**

Board of Zoning Adjustment was required to consider effects on surrounding neighborhood of street closings, pedestrian bridges and height restriction relief proposals in university's campus development plan, even though Board did not have jurisdiction to approve such proposals. D.C. Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

Board of Zoning Adjustment's failure to consider effects of proposed street closings, pedestrian bridges and relief from height restrictions in university's campus development plan rendered Board's findings inadequate and legally insufficient to support ultimate conclusions underlying approval of plan, requiring remand. D.C. Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

### § 10-1121.05. Removal or relocation of public or private facilities.

The District shall not pay the cost of any removal or relocation of publicly or privately owned facilities in a street or alley in connection with the construction of a structure in airspace leased under this subchapter. No such facilities may be removed or relocated unless the Mayor has approved all arrangements for such removal or relocation.

(Oct. 17, 1968, 82 Stat. 1167, Pub. L. 90-598, § 6.)

**Prior Codifications.** — 1981 Ed., § 7-1035. 1973 Ed., § 7-945.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 10-1121.06. Applicability of zoning and other laws.

Zoning laws and regulations and other laws and regulations applicable to the construction, use, and occupancy of buildings and premises, including building, electrical, plumbing, housing, health, and fire regulations, shall be applicable to structures constructed in airspace.

(Oct. 17, 1968, 82 Stat. 1167, Pub. L. 90-598, § 7.)

**Prior Codifications.** — 1981 Ed., § 7-1036. 1973 Ed., § 7-946.

### § 10-1121.07. Airspace and structures erected thereon deemed real property for purpose of taxation, water and sewer charges; exemptions.

For the purposes of this subchapter, airspace and structures constructed or erected in airspace shall be deemed to be real property and shall be liable to assessment, taxation, and water and sewer service charges by the District from the beginning of the term or period of such lease. For the purposes of real property assessments and taxation, the value of airspace, other than any



structure constructed or erected in airspace, shall be its fair market value. No tax or assessment shall be levied with respect to airspace or structures in airspace:

(1) Occupied exclusively by the federal government or the District government; or

(2) Occupied and used by 1 or more organizations which, under § 47-1002, are exempt from real property taxation.

(Oct. 17, 1968, 82 Stat. 1167, Pub. L. 90-598, § 8.)

**Prior Codifications.** — 1981 Ed., § 7-1037. 1973 Ed., § 7-947.

### **§ 10-1121.08. Deposit of rents, fees, taxes, assessments, sewer and water charges; payment of expenditures.**

(a) Except as provided by subsection (b) of this section, all collections, including rents and fees, received by the District under this subchapter shall be deposited in the Treasury of the United States in a trust fund, from which may be paid, in the same manner as is provided by law for other expenditures of the District, such expenditures as are necessary to carry out the purposes of this subchapter, including necessary expenses connected with the operation, maintenance, and disposition of property coming into the possession of the District by reason of a default under a lease entered into under this subchapter. The unobligated balance in such trust fund in excess of \$100,000 as of the end of any fiscal year shall be deposited in the Treasury to the credit of such special funds or the General Fund of the District in such proportions as the Mayor may determine.

(b) Taxes (including payments in lieu of taxes), special assessments, and sanitary sewer and water service charges shall be deposited directly to the respective funds to which such revenues are normally deposited.

(Oct. 17, 1968, 82 Stat. 1168, Pub. L. 90-598, § 9.)

**Prior Codifications.** — 1981 Ed., § 7-1038. 1973 Ed., § 7-948.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### **§ 10-1121.09. Restoration of airspace upon expiration or termination of lease.**

If, upon the expiration or termination of a lease of airspace under this subchapter: (1) the Mayor determines that any structure constructed or erected in such airspace should be removed or such airspace should be restored to its condition prior to the construction or erection of such structure; and (2)

the lessee or his successor in interest, upon the request of the Mayor, fails, after a reasonable time, to remove such structure or to restore such airspace to its condition prior to the construction or erection of such structure; the Mayor may remove such structure and restore such airspace. The cost of such removal and restoration shall be assessed against the abutting properties as a tax. Such tax shall be collected in the manner prescribed by § 6-806, for the collection of amounts assessed as a tax under that section.

(Oct. 17, 1968, 82 Stat. 1168, Pub. L. 90-598, § 10.)

**Prior Codifications.** — 1981 Ed., § 7-1039. 1973 Ed., § 7-949.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-1121.10. Regulations authorized; penalties.

(a) The Council of the District of Columbia shall, after public hearing, promulgate such regulations as may be necessary to carry out this subchapter.

(b) Any regulations promulgated under this subchapter may provide for the imposition of a fine of not more than \$300, or imprisonment of not more than 90 days, or both, for any violation of such regulations. Prosecution for violations of such regulations shall be conducted in the name of the District by the Corporation Counsel.

(c)(1) The Mayor shall:

(A) Give any person violating a regulation promulgated under this subchapter notice of such violation; and

(B) Set a date by which such person shall comply with such regulation.

(2) Each day after such date during which there is a failure to comply with such regulation shall be a separate offense.

(d) The Mayor may maintain an action in the Superior Court of the District of Columbia to enjoin the continuing violation of any regulation adopted, under the authority of this subchapter, by the Council of the District of Columbia or by the Zoning Commission.

(e) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this subchapter shall be pursuant to Chapter 18 of Title 2.

(Oct. 17, 1968, 82 Stat. 1168, Pub. L. 90-598, § 11; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(27); Oct. 5, 1985, D.C. Law 6-42, § 428, 32 DCR 4450.)

**Prior Codifications.** — 1981 Ed., § 7-1040. 1973 Ed., § 7-950.

**Legislative history of Law 6-42.** — Law

6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No.



6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia

Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 10-1121.11. Federal and District governments authorized to construct airspace structures.

The federal government and District government are each authorized, without regard to the requirements of §§ 10-1121.03 through 10-1121.10, to construct any structure in airspace, subject to the following conditions:

(1) The government proposing to construct any structure in airspace shall have fee simple title to real property abutting such real property;

(2) The airspace to be occupied by such structure shall be only within the frontages of the real property abutting such airspace which are directly opposite;

(3) The airspace to be occupied by such structure shall not be used to deprive any real property, not owned by the federal government or District government, of its easements of light, air, or access;

(4) The construction of any such structure by the District government across a street or alley, the title to which is in the United States, shall be in accordance with an agreement between the Mayor and the Attorney General of the United States, subject to such terms and conditions as the Attorney General and the Mayor agree to include in the agreement;

(5) Section 6-641.15 shall apply to the construction of any structure in such airspace by the federal government and, to the extent required by subsection (c) of § 2-1004, to the construction of any structure in such airspace by the District government;

(6) Plans for the construction of any structure in such airspace by the federal government or the District government shall be subject to review by the National Capital Planning Commission in accordance with § 2-1004;

(7) The construction of any such structure by the federal government or the District government shall be subject to the recommendations of the Commission of Fine Arts to the extent required by §§ 6-611.01 and 6-611.02 or §§ 6-1201 to 6-1205.

(Oct. 17, 1968, 82 Stat. 1169, Pub. L. 90-598, § 12.)

**Prior Codifications.** — 1981 Ed., § 7-1041. 1973 Ed., § 7-951.

**Change in Government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia

Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the



District of Columbia, respectively. Accordingly, Code, § 1-207.14(a)), appropriate changes in and also pursuant to § 714(a) of such Act (D.C. terminology were made in this section.

**§ 10-1121.12. Actions to recover use of leased airspace.**

If the federal government or the District government brings an action to recover the use of airspace leased under this subchapter, the government having title to the street or alley over or under which such airspace is located shall pay to the lessee of such airspace the fair market value of the remainder of his leasehold interest in such airspace. If the federal government recovers the use of airspace over or under a street to which it has title, the District government shall pay to the federal government an amount equal to the rents and fees received by the District government for the rental of such airspace or an amount equal to the fair market value of the remainder of the leasehold interest in such airspace, whichever is smaller.

(Oct. 17, 1968, 82 Stat. 1170, Pub. L. 90-598, § 13.)

**Prior Codifications.** — 1981 Ed., § 7-1042.  
1973 Ed., § 7-952.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 11-76, the

“Rental of Public Structures in Public Space Temporary Act of 1995”, see Mayor’s Order 96-8, January 31, 1996 (43 DCR 615).

**§ 10-1121.13. Area exempted from provisions of subchapter.**

This subchapter shall not apply to airspace within the area in the District bounded on the north by G Street Northeast and Northwest, on the south by G Street Southeast and Southwest, on the east by 11th Street Northeast and Southeast, and the west by 3rd Street Southwest and Northwest.

(Oct. 17, 1968, 82 Stat. 1170, Pub. L. 90-598, § 14.)

**Prior Codifications.** — 1981 Ed., § 7-1043.  
1973 Ed., § 7-953.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 11-138, the

“Rental of Public Structures in the Public Space Emergency Act of 1995”, see Mayor’s Order 95-117, September 12, 1995.

*Subchapter III. Rental of Public Structures in Public Space.*

**§ 10-1141.01. Definitions.**

For the purposes of this subchapter, the term:

(1) “Conduit” means any pipe or other hollow protective sleeve through which cable may be inserted.

(2) “Private structure” means all privately-owned fixtures on public space or in the public rights of way.

(3) “Public rights of way” means the surface, the air space above the surface (including air space immediately adjacent to a private structure located on public space or in a public right of way), and the area below the surface of any public street, bridge, tunnel, highway, lane, path, alley, sidewalk, or boulevard.

(4) “Public space” means all the publicly-owned property between the property lines on a street, park, or other public property as such property lines are shown on the records of the District, and includes any roadway, tree space, sidewalk, or parking between such property lines.

(5) “Public structure” means all publicly-owned fixtures on the public space and in the public rights of way.

(Apr. 9, 1997, D.C. Law 11-198, § 601, 43 DCR 4569.)

**Section references.** — This section is referenced in § 9-111.01a.

**Prior Codifications.** — 1981 Ed., § 7-1071.

**Temporary Addition of Section.** — For temporary (225 day) additions, see §§ 2 to 4 of Rental of Public Structures in Public Space Temporary Act of 1995 (D.C. Law 11-76, December 21, 1995, law notification 43 DCR 278).

For temporary (225 day) additions, see §§ 601 to 606 of Fiscal Year 1997 Budget Support Temporary Amendment Act of 1996 (D.C. Law 11-226, April 9, 1997, law notification 44 DCR 2584).

**Emergency legislation.** — For temporary addition of subchapter, see §§ 1001 through 1006 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181), §§ 601 through 606 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181), §§ 601 through 606 of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1996 (D.C. Act 11-429, October 29, 1996, 43 DCR 6151), and §§ 601-606 of the Fiscal Year 1997 Budget Support Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

For temporary addition of sections regarding the authorization of the rental of public structures in public space and public right of way by the Mayor, see §§ 2 through 4 of the Rental of Public Structures in Public Space Emergency Act of 1995 (D.C. Act 11-138, August 15, 1995, 42 DCR 4725) and §§ 2 through 4 of the Rental of Public Structures in Public Space Congressional Review Emergency Act of 1995 (D.C. Act 11-143, October 23, 1995, 42 DCR 6035).

**Legislative history of Law 11-198.** — Law 11-198, the “Fiscal Year 1997 Budget Support Act of 1996,” was introduced in Council and assigned Bill No. 11-741, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective on April 9, 1997.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 11-138, the “Rental of Public Structures in the Public Space Emergency Act of 1995”, see Mayor’s Order 95-117, September 12, 1995.

## § 10-1141.02. Applicability.

Sections 10-1141.03 to 10-1141.05 shall not apply to:

(1) The rental of:

(A) Public space for use as a sidewalk cafe, enclosed flower or fruit stand, or for other retail purposes pursuant to §§ 10-1101.01 through 10-1102.02;

(B) Space for a vault pursuant to §§ 10-1103.01 through 10-1104.01; or

(C) Airspace for buildings, walkways, or other structures designed to be occupied by people on a regular basis, pursuant to subchapter II of this chapter; or

(2) The occupation or use of public space or public streets by a vendor pursuant to a license to vend which has been issued to the vendor by the Mayor pursuant to Chapter 1A of Title 37 [§ 37-131.01 et seq.].

(Apr. 9, 1997, D.C. Law 11-198, § 602, 43 DCR 4569; Oct. 22, 2009, D.C. Law 18-71, § 12(b), 56 DCR 6619.)



**Prior Codifications.** — 1981 Ed., § 7-1072.

**Effect of amendments.** — D.C. Law 18-71, in par. (2), substituted “by the Mayor pursuant to Chapter 1A of Title 37” for “pursuant to § 47-2834”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 11(b) of Extension of Time to Dispose of the Old Congress Heights School Temporary Amendment Act of 2008 (D.C. Law 17-172, June 5, 2008, law notification 55 DCR 7258).

Section 10(b) of D.C. Law 18-4 substituted “issued on or after March 19, 2008” for “pursuant to paragraph 36 of section 7 of An Act making appropriations for the fiscal year ending June thirtieth, nineteen hundred and three and for other purposes, approved July 1, 1902 (32 Stat. 627; D.C. Code § 47-2834)”.

Section 12(b) of D.C. Law 18-4 provided that the act shall expire after 225 days of its having taken effect.

**Temporary Addition of Section.** — See Historical and Statutory Notes following § 10-1141.01.

**Emergency legislation.** — See Historical and Statutory Notes following § 10-1141.01.

For temporary (90 day) amendment of sec-

tion, see § 10(b) of Vending Regulation Emergency Act of 2008 (D.C. Act 17-322, March 19, 2008, 55 DCR 3445).

For temporary (90 day) amendment of section, see § 10(b) of Vending Regulation Emergency Act of 2009 (D.C. Act 18-9, January 29, 2009, 56 DCR 1638).

For temporary (90 day) amendment of section, see § 10(b) of Vending Regulation Congressional Review Emergency Act of 2009 (D.C. Act 18-47, April 27, 2009, 56 DCR 3574).

**Legislative history of Law 11-198.** — For legislative history of D.C. Law 11-198, see Historical and Statutory Notes following § 10-1141.01.

**Legislative history of Law 18-71.** — Law 18-71, the “Vending Regulation Act of 2009”, as introduced in Council and assigned Bill No. 18-257, which was referred to the Committee on Public Services and Consumer Affairs. The bill was adopted on first and second readings on June 30, 2009, and July 14, 2009, respectively. Signed by the Mayor on July 28, 2009, it was assigned Act No. 18-167 and transmitted to both Houses of Congress for its review. D.C. Law 18-71 became effective on October 22, 2009.

### § 10-1141.03. Permits for the occupation of public space, public rights of way, and public structures.

(a) The Mayor may issue permits to occupy or otherwise use public rights of way, public space, and public structures pursuant to this subchapter for any purpose, including the use of the foregoing for conduits, including conduits which occupy public space, or a public right of way on April 9, 1997.

(b) The Mayor may issue permits to occupy public space, public rights of way, and public structures pursuant to this subchapter without regard to whether the permittee owns the property abutting the public space, public right of way, or public structure which is the subject of the permit. The permits shall be subject to the terms and conditions set forth in any agreement entered into by the Mayor and the permittee to carry out the purposes of this subchapter, and to any regulations promulgated pursuant to this subchapter.

(c) The Mayor may revoke any permit issued pursuant to this subchapter at any time. In the event the Mayor requires any permittee to vacate all or any part of any public space, public right of way, or public structure for which a permit charge has been paid, the Mayor shall refund as much of the prepaid charge as may represent that portion of the permit which has been revoked.

(d) Public space, public rights of way, and public structures which are the subject of a permit issued pursuant to this subchapter may be leased or subleased only with the express consent of the Mayor.

(e) Upon the expiration or revocation of any permit issued pursuant to this subchapter, the Mayor may require, at the expense of the permittee, the immediate removal of any apparatus, structure, or device affixed or erected in public space or on a public right of way, or on a public structure, and the



restoration of the public space, public right of way, or public structure to its condition prior to the issuance of the permit. If the permittee does not comply with the requirements of this section, the Mayor may remove any of the permittee's property and the cost of such removal shall be borne by the permittee.

(Apr. 9, 1997, D.C. Law 11-198, § 603, 43 DCR 4569.)

**Section references.** — This section is referenced in § 10-1141.02, § 10-1141.04, and § 39-501.04.

**Prior Codifications.** — 1981 Ed., § 7-1073.

**Temporary Addition of Section.** — See Historical and Statutory Notes to § 10-1141.01.

Section 2 of D.C. Law 19-70 added a section to read as follows:

"Sec. 603a. Waiver or reduction of permit fees for the occupation of public space, public rights of way, and public structures.

"The Mayor may waive or reduce any permit fee, except for the application fee, to occupy or otherwise use public space, public rights of way, or public structures for a project that:

"(1) Is conducted by a Business Improvement District or Community Improvement District established pursuant to the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.01 et seq.);

"(2) In the Mayor's determination, serves a public benefit;

"(3) Does not impose costs on the District government; and

"(4) Does not involve commercial sponsorship."

Section 5(b) of D.C. Law 19-70 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — See notes to § 7-1071.

**Legislative history of Law 11-198.** — For legislative history of D.C. Law 11-198, see Historical and Statutory Notes following § 10-1141.01.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Act 11-429, the "Fiscal Year 1997 Budget Support Emergency Act of 1996", see Mayor's Order 96-175, December 9, 1996 (43 DCR 6981).

## § 10-1141.03a. Waiver or reduction of permit fees for the occupation of public space, public rights of way, and public structures.

The Mayor may waive or reduce any permit fee, except for the application fee, to occupy or otherwise use public space, public rights of way, or public structures for a project that:

(1) Is conducted by a Business Improvement District or Community Improvement District established pursuant to subchapter VIII of Chapter 12 of Title 2 [§ 2-1215.01 et seq.];

(2) In the Mayor's determination, serves a public benefit;

(3) Does not impose costs on the District government; and

(4) Does not involve commercial sponsorship.

(Apr. 9, 1997, D.C. Law 11-198, § 603a, as added Dec. 2, 2011, D.C. Law 19-48, § 2, 58 DCR 8943.)

**Emergency legislation.** — For temporary (90 day) addition of section, see § 2 of Public Space Permit Fee Waiver Emergency Amendment Act of 2011 (D.C. Act 19-163, October 11, 2011, 58 DCR 8892).

**Legislative history of Law 19-48.** — Law 19-48, the "Public Space Permit Fee Waiver Amendment Act of 2011", was introduced in Council and assigned Bill No. 19-223, which

was referred to the Committee on Environment, Public Works and Transportation. The Bill was adopted on first and second readings on July 12, 2011, and September 20, 2011, respectively. Signed by the Mayor on October 27, 2011, it was assigned Act No. 19-178 and transmitted to both Houses of Congress for its review. D.C. Law 19-48 became effective on December 2, 2011.

**§ 10-1141.04. Rulemaking.**

The Mayor shall issue regulations to implement this subchapter. These regulations shall:

(1) Provide for a nonrefundable application fee to be paid by any party applying for a permit pursuant to this subchapter. The fee shall be set in an amount to recoup some or all of the costs to the District of Columbia for reviewing the application;

(2) Provide for the payment of a nondiscriminatory, fair, and equitable charge for any permit issued in accordance with this subchapter. The Mayor may allow a permittee to pay a fixed charge for a set period of time, pay an amount based upon the amount of the public right of way or public space used or occupied, pay an amount based upon a revenue sharing formula, or provide in-kind services to the District in lieu of a monetary payment, or the Mayor may require a permittee to pay a combination of these items. The regulations may also provide for interest to be charged on late payments of any charges imposed pursuant to this subchapter;

(3) Generally establish categories of use and the extent to which public space, public rights of way, and public structures may be used;

(4) Establish and regulate the process through which any impact, modification, or damage to the public space, public-rights-of-way, or public structures may be compensated, which may include the establishment of user fees, including impact and other direct-use fees, charges, and penalties. The regulations shall include provisions governing the appropriate bonding and insurance requirements which must be satisfied by any party who receives a permit issued pursuant to this subchapter, and shall provide for any permittee to provide comprehensive indemnification to the District for any costs or damages which it incurs as a result of actions taken by the permittee in connection with the exercise of any rights or privileges granted in any permit issued pursuant to this subchapter; and

(5) Provide for the payment of a technology charge or other surcharge to be added to the fee for each permit issued under § 10-1141.03.

(Apr. 9, 1997, D.C. Law 11-198, § 604, 43 DCR 4569; Oct. 19, 2000, D.C. Law 13-172, § 504, 47 DCR 6308; Nov. 13, 2003, D.C. Law 15-39, § 624, 50 DCR 5668; Mar. 13, 2004, D.C. Law 15-105, § 6(a), 51 DCR 881; Sept. 24, 2010, D.C. Law 18-223, § 6012, 57 DCR 6242.)

**Prior Codifications.** — 1981 Ed., § 7-1074.

**Effect of amendments.** — D.C. Law 13-172 added par. (5), and rewrote par. (4), which previously read:

“(4) Establish and regulate the process through which any modification or damage to the public space, public rights of way, or public structure may be compensated. The regulations shall include provisions governing the appropriate bonding and insurance requirements which must be satisfied by any party who receives a permit issued pursuant to this subchapter, and shall provide for any permittee to provide comprehensive indemnification to the

District for any costs or damages which it incurs as a result of actions taken by the permittee in connection with the exercise of any rights or privileges granted in any permit issued pursuant to this subchapter.”

Section 503 of D.C. Law 13-172 provided: “The amendments made by section 502 of this title to the public rights-of-way rental fees do not preclude the Mayor from further amending these same fees as authorized in section 604 of the Fiscal Year 1997 Budget Support Act of 1996 provided that the amended rates, when taken together with the other user fees, charges, and penalties collected pursuant to



that section and D.C. Code § 47-2718 do not adversely impact the positive fiscal impact identified in section 506 of this title.”

D.C. Law 15-39 repealed par. (5) which had read as follows: “(5) The first \$30 million dollars of annual revenue derived from the collection of the public rights-of-way user fees, charges, and penalties established pursuant to this section shall be dedicated to the Department of Public Works for expenditures related to street and alley repairs and maintenance that would otherwise be paid out of the General Fund. Any revenues in excess of \$30 million annually from the collection of these public rights-of-way user fees, charges, and penalties shall be dedicated to the District of Columbia Highway Trust Fund”.

D.C. Law 15-105, in par. (5), validated a previously made technical corrections.

D.C. Law 18-223 deleted “and” from the end of par. (3); substituted “; and” for a period at the end of par. (4); and added par. (5).

**Emergency legislation.** — See notes to § 10-1141.01.

For temporary (90-day) amendment of section, and statement of continuing amendment authorization, see §§ 503 and 504 of the Fiscal Year 2001 Budget Support Emergency Act of 2000 (D.C. Act 13-376, July 24, 2000, 47 DCR 6574).

For temporary (90 day) amendment of section, see §§ 503 and 504 of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

For temporary (90 day) amendment of section, see § 624 of Fiscal Year 2004 Budget

Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 624 of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

For temporary (90 day) amendment of section, see § 6012 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 11-198.** — For legislative history of D.C. Law 11-198, see Historical and Statutory Notes following § 10-1141.01.

**Legislative history of Law 13-172.** — Law 13-172, the “Fiscal Year 2001 Budget Support Act of 2000,” was introduced in Council and assigned Bill No. 13-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 18, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-375 and transmitted to both Houses of Congress for its review. D.C. Law 13-172 became effective on October 19, 2000.

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 10-834.

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 10-801.01.

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 10-701.

**Short title.** — Short title: Section 6011 of D.C. Law 18-223 provided that subtitle B of title VI of the act may be cited as the “Public Space Permit Enhancement Amendment Act of 2010”.

## § 10-1141.04a. Dedication of public rights-of-way user fees, charges, and penalties. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-198, § 604a, as added Oct. 19, 2000, D.C. Law 13-172, § 504(b), 47 DCR 6308; Mar. 13, 2004, D.C. Law 15-105, § 6(b), 51 DCR 881; Apr. 13, 2005, D.C. Law 15-354, § 85(a), 52 DCR 2638; Apr. 7, 2006, D.C. Law 16-91, § 112, 52 DCR 10637.)

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 3 of Highway Trust Fund and District Department of Transportation Emergency Amendment Act of 2005 (D.C. Act 16-206, November 17, 2005, 52 DCR 10524).

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 10-801.01.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 10-801.

**Legislative history of Law 16-91.** — For Law 16-91, see notes following § 10-1001.01.

## § 10-1141.05. Inspection and audit of books and records.

The Mayor shall require a permittee to maintain specific books, records, and accounts. All books, records, and accounts of any permittee may be inspected



by the Mayor, and may be inspected and audited by the District of Columbia Inspector General in order to determine whether the permittee has paid or will pay all amounts properly owed under any permit issued pursuant to this subchapter.

(Apr. 9, 1997, D.C. Law 11-198, § 605, 43 DCR 4569.)

**Prior Codifications.** — 1981 Ed., § 7-1075.

**Temporary Addition of Section.** — See Historical and Statutory Notes following § 10-1141.01.

**Emergency legislation.** — See notes to § 10-1141.01.

**Legislative history of Law 11-198.** — For legislative history of D.C. Law 11-198, see Historical and Statutory Notes following § 10-1141.01.

## § 10-1141.06. Surcharge authorization.

Each public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement.

(Apr. 9, 1997, D.C. Law 11-198, § 606, 43 DCR 4569.)

**Prior Codifications.** — 1981 Ed., § 7-1076.

**Temporary Addition of Section.** — See Historical and Statutory Notes to § 10-1141.01.

**Emergency legislation.** — See notes to § 10-1141.01.

**Legislative history of Law 11-198.** — For legislative history of D.C. Law 11-198, see Historical and Statutory Notes following § 10-1141.01.

### CASE NOTES

#### In general.

Public Service Commission (PSC) conducted sufficient review before approving public utilities' proposals to implement customer surcharges to recover lease payments to District of Columbia for use of streets and other property; PSC had no role in determining charges per linear foot that utilities were required to pay

District or in the overall general structure of their recovery, but it did have responsibility to ensure that utilities' mechanism of recovery was appropriate, which it accomplished when it determined that the proposals complied with statutory requirements. Office of the People's Counsel v. PSC, 799 A.2d 376, 2002 D.C. App. LEXIS 297 (2002).

## CHAPTER 11A. ABATEMENT OF DANGEROUS CONDITIONS ON PUBLIC SPACE.

Sec.	Sec.
10-1181.01. Definitions.	structures in public space; costs of correcting life-or-health threatening condition.
10-1181.02. Unsafe structure in public space; inspection; owner to remove or secure; District action.	10-1181.04. Dangerous Structures on Public Space Fund.
10-1181.03. Cost of work performed by Department assessed against private	10-1181.05. Assessment of fee.

### § 10-1181.01. Definitions.

For purposes of this chapter, the terms:

- (1) "Department" means the District Department of Transportation.
- (2) "Director" means the Director of the District Department of Transportation.

(3) "Private structure" means a fixture or other structure built on public space or in the public right of way constructed by a private person or entity, with or without the permission of the District.

(4) "Public right of way" means the surface, the air space above the surface (including air space immediately adjoining and above a private structure), and the area below the surface of any public street, bridge, tunnel, highway, lane, path, alley, sidewalk, or boulevard.

(5) "Public space" means all the publicly-owned property within the property lines of a street, park, or other public property as such property lines are shown on the land records of the District, and includes any roadway, tree space, sidewalk, or parking within such property lines.

(Dec. 7, 2004, D.C. Law 15-205, § 6022, 51 DCR 8441.)

**Emergency legislation.** — For temporary (90 day) addition, see § 6022 of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) addition, see § 6022 of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

**Legislative history of Law 15-205.** — Law 15-205, the "Fiscal Year 2005 Budget Support Act of 2004", was introduced in Council and assigned Bill No. 15-768, which was referred to

the Committee of the Whole. The Bill was adopted on first and second readings on May 14, 2004, and June 29, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-487 and transmitted to both Houses of Congress for its review. D.C. Law 15-205 became effective on December 7, 2004.

**Short title.** — Short title of subtitle C of title VI of Law 15-205: Section 6021 of D.C. Law 15-205 provided that subtitle C of title VI of the act may be cited as the Abatement of Dangerous Conditions on Public Space Act of 2004.

### § 10-1181.02. Unsafe structure in public space; inspection; owner to remove or secure; District action.

(a) Whenever any private structure on public space or in the public right of way is observed by or reported to the Department as unsafe, the Director may examine such structure and if, in the Director's opinion, the structure is unsafe, the Director may immediately notify the owners of all properties

abutting the structure or other persons having a property interest in the unsafe structure of this unsafe condition.

(b) The notice shall direct the person to whom it is issued to either make safe and secure, repair, or to remove, as may be necessary, that portion of the unsafe private structure that abuts the property of the owner, agent, or other person having a property interest in the structure or show cause, sufficient to the Director, why the person should not be required to take corrective action.

(c) A person so notified shall be allowed until 12:00 noon of the day following the service of such notice to commence the securing, repairing, or removing of the portion of the unsafe private structure identified in the notice as being the responsibility of the owner, agent, or other person. A person so notified shall employ sufficient labor to remove or repair the structure as expeditiously as can be done.

(d) Where the public safety requires immediate corrective action, the Director may cause the unsafe structure to be shored up, taken down, or otherwise secured without delay, and may install a fence or boarding for the protection of the public. The Director shall provide an opportunity for review of the corrective action taken without prejudice to the Director's authority to take and complete remedial action if it is determined to be necessary.

(e) If the owner takes corrective action to secure or repair the unsafe private structure as required by this chapter, the Director shall provide the owner with notice, as provided for in this chapter if additional remedial repairs are determined to be necessary to restore the private structure and the public space to a safe condition.

(f) Notice required by [this] chapter shall be deemed to have been served if the person or an authorized agent is notified by personal service or by registered mail sent to the person's last known address and by the conspicuous posting of the notice on the unsafe private structure. If the person or person's address is unknown or the person fails to accept service either personally or by registered mail, then notice is deemed served upon the person by the posting of a copy of the notice in a conspicuous place on the person's property that abuts the unsafe private structure.

(Dec. 7, 2004, D.C. Law 15-205, § 6023, 51 DCR 8441.)

**Emergency legislation.** — For temporary (90 day) addition, see § 6023 of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) addition, see § 6023

of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

**Legislative history of Law 15-205.** — For Law 15-205, see notes following § 10-1181.01.

### **§ 10-1181.03. Cost of work performed by Department assessed against private structures in public space; costs of correcting life-or-health threatening condition.**

(a) If a person to whom a notice was issued pursuant to this chapter fails to take the actions required under the notice or to show good cause to the Director



why such actions need not be taken, the Director may correct the condition, assess the fair market value of the correction or the actual cost of the correction, whichever is higher, and all expenses incident thereto, including the cost of publication, as a tax against the property which the condition abuts. The tax shall be carried on the regular tax rolls of the District and may be collected in the same manner as general taxes in the District are collected.

(b) Any tax authorized to be levied and collected under subsection (a) of this section may be paid without interest within 60 days from the date such tax was levied. Interest of 20% per annum shall be charged on all unpaid amounts from the expiration of 60 days from the date the tax was levied. The tax may be paid in 3 equal installments, with interest. If the tax or part of the tax shall remain unpaid after the expiration of 2 years from the date the tax was levied, the property against which the tax was levied may be sold for the tax or the unpaid portion of the tax, with interest and penalties, at the next ensuing annual tax sale conducted pursuant to § 47-1301 in the same manner and under the same conditions as property sold for delinquent general real estate taxes, if the tax with interest and penalties is not paid in full prior to the sale.

(Dec. 7, 2004, D.C. Law 15-205, § 6024, 51 DCR 8441.)

**Emergency legislation.** — For temporary (90 day) addition, see § 6024 of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) addition, see § 6024

of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

**Legislative history of Law 15-205.** — For Law 15-205, see notes following § 10-1181.01.

## § 10-1181.04. Dangerous Structures on Public Space Fund.

There is established a fund designated as the Dangerous Structures on Public Space Fund, which shall be separate from the General Fund of the District of Columbia and shall be used for defraying the Department's costs for repairing or removing dangerous structures in public space and all associated administrative costs. The fund shall be funded by taxes collected or property collected under this chapter along with any additional funds that may be lawfully appropriated for this purpose at the discretion of the Director. All monies collected under this chapter, and all interest earned, shall be deposited into the fund without regard to any fiscal year limitation, pursuant to an act of Congress. All monies deposited into the fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in this chapter, subject to authorization by Congress in an appropriations act.

(Dec. 7, 2004, D.C. Law 15-205, § 6025, 51 DCR 8441.)

**Emergency legislation.** — For temporary (90 day) addition, see § 6025 of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) addition, see § 6025

of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

**Legislative history of Law 15-205.** — For Law 15-205, see notes following § 10-1181.01.

**§ 10-1181.05. Assessment of fee.**

The Director may charge any person whose property abuts the unsafe private structure that is the subject of any corrective action as provided in this chapter or any property owner who receives a notice to correct any wrongful condition, a fee to cover the administrative costs incurred by the District in its effort to remedy the violation. The Director may assess this fee as a tax against the property, may carry this tax on the regular tax rolls, and may collect this tax in the same manner as real estate taxes are collected.

(Dec. 7, 2004, D.C. Law 15-205, § 6026, 51 DCR 8441.)

**Emergency legislation.** — For temporary (90 day) addition, see § 6026 of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) addition, see § 6026

of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

**Legislative history of Law 15-205.** — For Law 15-205, see notes following § 10-1181.01.

SUBTITLE IV. SPECIFIC LOCALES.

CHAPTER 12. WASHINGTON CONVENTION AND SPORTS AUTHORITY.

*Subchapter I. General Provisions*

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Declaration of Policy

Sec.

10-1201.01. [Repealed].

PART B

General Provisions

- 10-1202.01. Definitions.  
10-1202.02. Establishment of the Washington Convention and Sports Authority; purpose of the Authority.  
10-1202.02a. Transfer of authority of the Armory Board.  
10-1202.02b. Transfer of authorities and functions of the District of Columbia Sports and Entertainment Commission; abolishment of the District of Columbia Sports and Entertainment Commission.  
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10-1202.03. General powers of Authority.  
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10-1202.08. Washington Convention Center Fund; transfer and pledge of revenues.  
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10-1202.08b. Sports and Entertainment Fund.  
10-1202.08c. Sports Facilities Account.  
10-1202.09. Delegation of Council authority to issue bonds.  
10-1202.10. Power of the Authority to issue bonds and notes.  
10-1202.11. Terms for sale of bonds; additional bond and note provisions.  
10-1202.12. District pledges.  
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Sec.

- 10-1202.15. Location of new convention center.  
10-1202.15a. Redevelopment of existing convention center site.  
10-1202.16. Merit personnel system inapplicable.  
10-1202.17. [Repealed].  
10-1202.18. Establishment of Advisory Committee.

PART C

Land Lease Authority for Hotel

- 10-1202.21. Findings.  
10-1202.22. Lease authority for the Mayor.  
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10-1202.23a. Use of new convention center vault space.  
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10-1202.24. Authority for vault space permit or airspace lease.

PART D

Eminent Domain for Hotel

- 10-1202.31. Definitions.  
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PART D-1

Construction of the Convention Center Hotel

- 10-1202.41. Construction contracting requirements.  
10-1202.42. First Source Agreement required.  
10-1202.43. Construction apprenticeship programs.  
10-1202.44. Internship program.

PART E

Miscellaneous

- 10-1203.01 to 10-1203.04. [Omitted].  
10-1203.05. Audit of accounts and operations.  
10-1203.06. Expiration provisions.  
10-1203.07. Collection and transfer of taxes to Washington Convention Center Fund.  
10-1211 to 10-1213. [Transferred].  
10-1212, 10-1213. [Repealed].  
10-1214 to 10-1220. [Repealed].

*Subchapter II. New Convention Center Hotel Financing*

- 10-1221.01. Definitions.  
10-1221.02. Findings.



Sec.  
 10-1221.03. Creation of the New Convention Center Hotel Fund.  
 10-1221.04. Creation of the New Convention Center Hotel TIF Area.  
 10-1221.05. Bond authorization.  
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 10-1221.07. Issuance of the bonds.  
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 10-1221.09. Financing Documents and Closing Documents.  
 10-1221.10. Limited liability.  
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 10-1221.14. Recovery zone designation.

Sec.  
 10-1221.15. Federal recovery act reimbursement requirement.  
*Subchapter III. Washington Convention Center Board of Directors*  
 PART A  
 General  
 10-1271, 10-1272. [Repealed].  
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 10-1273 to 10-1280. [Repealed].

### *Subchapter I. General Provisions.*

#### PART A.

#### DECLARATION OF POLICY.

### § 10-1201.01. Findings and declarations. [Repealed].

Repealed.

(Sept. 28, 1994, D.C. Law 10-188, § 101, 41 DCR 533.; Mar. 3, 2010, D.C. Law 18-111, 2081(a), 57 DCR 181.)

**Prior Codifications.** — 1981 Ed., § 9-801.

**Emergency legislation.** — For temporary (90 day) repeal, see § 2081(a) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2081(a) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — Law 10-188, the “Washington Convention Center Authority Act of 1994,” was introduced in Council and assigned Bill No. 10-527, which was referred to the Committee on Economic Development

and Sequential to the Committee of the Whole. The Bill was adopted on first and second readings on July 5, 1994, and July 19, 1994, respectively. Signed by the Mayor on August 2, 1994, it was assigned Act No. 10-314 and transmitted to both Houses of Congress for its review. D.C. Law 10-188 became effective on September 28, 1994.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Short title.** — Short title: Section 2080 of D.C. Law 18-111 provided that subtitle I of title II of the act may be cited as the “Washington Convention Center Authority and Sports and Entertainment Commission Merger Amendment Act of 2009”.

#### PART B.

#### GENERAL PROVISIONS.

### § 10-1202.01. Definitions.

For the purposes of this chapter, the term:

(1A) “Armory” means the District of Columbia National Guard Armory.

(1B) “Authority” means the Washington Convention and Sports Authority established pursuant to § 10-1202.02.

(1C) “Bond” or “bonds” means any revenue bond, note, or other obligation (including refunding bonds, notes, or other obligations) used to borrow money to finance, assist in financing, or to refinance undertakings authorized by this chapter.

(2) “Chief Financial Officer” means the Chief Financial Officer established by § 1-204.24a(a).

(3) “Costs” means any and all expenses including expenses for preconstruction and construction, acquisition, alteration, enlargement of furnishing, fixturing and equipping, reconstruction and rehabilitation of the new convention center, including without limitation, the purchase or lease expense for all lands, structures, real or personal property, rights, rights-of-way, roads, franchises, easements and interest acquired or used for, or in connection with the new convention center project, the cost of demolishing or removing buildings or structures on land so acquired, including the expenses incurred for acquiring any lands to which the buildings may be moved or located, the expenses incurred for all utility lines, structures or equipment charges, interest prior to, during and for a period as the Authority may reasonably determine to be necessary for the placing of the new convention center in operation, provisions for reserves for principal and interest for extensions, enlargements, additions and improvements, expenses incurred for architectural engineering, energy efficiency technology, design and consulting, financial and legal services, fees for letters of credit, bond insurance, debt service or debt service reserve insurance, surety bonds or similar credit enhancement instruments, plans, specification studies, surveys, estimates of expenses and of revenues, expenses necessary or incident to determining the feasibility of constructing the new convention center, the financing of such construction, development and acquisition of the project in operation including, without limitation, a proper allowance for contingencies and the provision of reasonable initial working capital for operating the new convention center.

(4) “Dedicated taxes” means those taxes imposed pursuant to §§ 47-2002.02 and 47-2202.01, plus interest and penalties related thereto.

(4A) “District sports and entertainment facility” means:

(A) Any stadium, arena, or recreation site owned, operated, or under the direct control of the Authority, including Robert F. Kennedy Memorial Stadium, the District of Columbia National Guard Armory, and the ballpark, as defined in § 47-2002.05(a)(1)(A).

(B) Any property subordinate, or functionally related, to any stadium, arena, or recreation site, including team offices domiciled in a District sports and entertainment facility, parking lots, parking garages, and practice facilities.

(5) “Existing convention center” means the convention center constructed pursuant to subchapter III of this chapter, including any land and improvements appurtenant thereto.

(6) “New convention center” means a comprehensive international trade and exhibition center, to be constructed in 1 or more phases within an area designated pursuant to § 10-1202.15.



(7) “New convention center hotel” means a hotel to be constructed on the real property located in Lot 26 (formerly known as Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845), Square 370, bounded by 9th Street, N.W., 10th Street, N.W., L Street, N.W., and Massachusetts Avenue, N.W.

(8) “Robert F. Kennedy Memorial Stadium” includes all property, facilities, equipment, and appliances of any kind comprising the areas designated as A, B, C, D, or E on the revised map entitled “Map to Designate Transfer of Stadium and Lease of Parking Lots to the District,” prepared jointly by the National Park Service (National Capital Region) and the District of Columbia Department of Public Works for site development and dated October 1986 (NPS drawing number 831/87284-A) and any other future additions thereto.

(Sept. 28, 1994, D.C. Law 10-188, § 201, 41 DCR 5333; Aug. 12, 1998, D.C. Law 12-142, § 2(a), 45 DCR 4826; Sept. 19, 2006, D.C. Law 16-163, § 114(a), 53 DCR 5430; Apr. 15, 2008, D.C. Law 17-144, § 3(a), 55 DCR 2527; Oct. 22, 2009, D.C. Law 18-78, § 2(a), 56 DCR 6959; Mar. 3, 2010, D.C. Law 18-111, § 2081(b), 57 DCR 181.)

**Section references.** — This section is referenced in § 10-1202.02c.

**Prior Codifications.** — 1981 Ed., § 9-802.

**Effect of amendments.** — D.C. Law 16-163 added par. (7).

D.C. Law 17-144 rewrote par. (7) which had read as follows: “(7) ‘New convention center hotel’ means a hotel to be constructed on the area bounded by Ninth Street, N.W., Tenth Street, N.W., M Street, N.W., and Massachusetts Avenue, N.W.”

D.C. Law 18-78 rewrote par. (7), which had read as follows: “(7) ‘New convention center hotel’ means a hotel to be constructed on the real property located in Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845, Square 370, bounded by 9th Street, N.W., 10th Street, N.W., L Street, N.W., and Massachusetts Avenue, N.W.”

D.C. Law 18-111 redesignated par. (1) as par. (1C); added pars. (1A), (1B), (4A); and rewrote par. (2), which had read as follows: “(2) ‘Chief Financial Officer’ means the Deputy Mayor for Financial Management established pursuant to Mayor’s Order 88-13, as amended, or any successor authorized by the Mayor to review, plan, coordinate, and supervise all financial management programs, policies, strategies, proposals, and budgetary functions of the District.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 114(a) of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

For temporary (90 day) amendment of section, see § 2(a) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

For temporary (90 day) amendment of section, see § 2081(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 12-142.** — Law 12-142, the “Washington Convention Center Authority Financing Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-379, which was referred to the Committee on Economic Development and the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 2, 1998, and June 16, 1998, respectively. Signed by the Mayor on June 23, 1998, it was assigned Act No. 12-402 and transmitted to both Houses of Congress for its review. The legislation became effective on August 12, 1998, the date that the President of the United States signed P.L. 105-227, which waived the 30-day Congressional review period for this law.

**Legislative history of Law 16-163.** — Law 16-163, the “New Convention Center Hotel Omnibus Financing and Development Act of 2006,” was introduced in Council and assigned Bill No. 16-630 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on May 2, 2006, and June 6, 2006, respectively. Signed by the Mayor on June 27, 2006, it was assigned



Act No. 16-409 and transmitted to both Houses of Congress for its review. D.C. Law 16-163 became effective on September 19, 2006.

**Legislative history of Law 17-144.** — Law 17-144, the “New Convention Center Hotel Omnibus Financing and Development Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-459 which was referred to the Committees on Economic Development and Finance and Revenue. The Bill was adopted on first and second readings on January 8, 2008, and February 5, 2008, respectively. Signed by the Mayor on February 25, 2008, it was assigned Act No. 17-310 and transmitted to both Houses of Congress for its review. D.C. Law 17-144 became effective on April 15, 2008.

**Legislative history of Law 18-78.** — Law

18-78, the “New Convention Center Hotel Amendment Act of 2009”, as introduced in Council and assigned Bill No. 18-310, which was referred to the Committees on Economic Development and Finance and Revenue. The bill was adopted on first and second readings on June 30, 2009, and July 31, 2009, respectively. Signed by the Mayor on August 12, 2009, it was assigned Act No. 18-185 and transmitted to both Houses of Congress for its review. D.C. Law 18-78 became effective on October 22, 2009.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Effective date.** — Section 2 of Pub. L. 105-227, 112 Stat. 1515, provided that D.C. Law 12-142 shall take effect on August 12, 1998.

## § 10-1202.02. Establishment of the Washington Convention and Sports Authority; purpose of the Authority.

(a) There is established, as an independent authority of the District government, the Washington Convention and Sports Authority. The Authority shall be a corporate body, created to effectuate certain public purposes, that has a legal existence separate from the District government.

(b) Notwithstanding any other provisions of this chapter, the general purposes of the Authority are to:

(1) Acquire, construct, equip, maintain, and operate the new convention center, in whole or in part, directly or under contract;

(2) Promote, develop, and maintain the District as a location for convention, trade shows, and other meetings;

(3) Engage in activities to promote trade shows, conventions, concerts, and other events related to activities at a facility of the Authority;

(4) Consolidate the District's efforts in promoting and managing sporting and entertainment events;

(5) Promote, develop, and maintain the District as a location for sporting events, sports teams, recreational events, film, television, and other motion picture productions, and entertainment events, directly or under contract;

(6) Develop, construct, and lease the ballpark in accordance with § 10-1601.05;

(7) Encourage and support youth activities in the District, including by sponsoring sporting events for young athletes, attracting national collegiate championships to the District, and providing disadvantaged youths with opportunities to attend sporting events;

(8) Exercise the non-military functions of the Armory Board and the Armory, including controlling the scheduling, rental, and promotion of the Armory and its adjacent facilities and leasing unused or vacant space in the Armory;

(9) Exercise the non-regulatory functions of the Boxing and Wrestling Commission, including all advertising, promotion, and attraction of boxing, wrestling, and mixed martial arts events; and

(10) Maintain and operate the old convention center site until such time as is considered appropriate by the Mayor.

(c) The Authority shall create an energy-efficient new convention center suitable for multipurpose use for housing trade shows, conventions, cultural, political, musical, educational, entertainment, athletic, or other events, displaying exhibits and attractions, and promoting the historical, natural and recreational resources of the District, including all facilities necessary or convenient to that purpose, regardless of whether the facilities are contiguous, including the following: exhibit halls; auditoriums; theaters; restaurants and other facilities for the purveying of food, beverages, publications, souvenirs, novelties and goods and services of all kinds, whether operated or purveyed directly or indirectly through concessioners, licensees or lessees or otherwise; meeting room facilities and parking areas in connection therewith, including meeting rooms that provide for simultaneous translation capabilities for several languages; related lands, buildings, structures, fixtures, equipment, and personalty appurtenant or convenient to the foregoing; and extension, addition, and improvement of such facilities.

(d) The Authority shall designate the Program Manager or Program Management Consultant, required by § 10-1202.04(g)(1), to serve as the community liaison to act as a single point of contact to disseminate information to, and to receive comments from, the community related to the new convention center.

(Sept. 28, 1994, D.C. Law 10-188, § 202, 41 DCR 5333; Mar. 3, 2010, D.C. Law 18-111, § 2081(c), 57 DCR 181.)

**Cross references.** — Mayoral nomination of agency heads, Washington Convention Center Authority Board of Directors, see § 1-523.01.

**Section references.** — This section is referenced in § 10-1202.01 and § 10-1202.02c.

**Prior Codifications.** — 1981 Ed., § 9-803.

**Effect of amendments.** — D.C. Law 18-111, in subsec. (a), substituted “Washington Convention and Sports Authority” for “Washington Convention Center Authority (‘Authority’)”; rewrote subsec. (b); and, in subsec. (d), substituted “community related to the new convention center” for “community”. Prior to amendment, subsec. (b) read as follows: “(b) Notwithstanding any other provisions of this chapter, the general purpose of the Authority is to acquire, construct, equip, maintain, and operate the new convention center, in whole or in part, directly or under contract, and engage in other activities as it deems appropriate to promote trade shows and conventions, or other events, closely related to activities of the new convention center, and to maintain and operate the existing convention center until such time as the new convention center is completed and opened for operation.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2081(c) of Fiscal Year 2010 Budget Support Second Emer-

gency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 2083 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(c) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) addition, see § 2083 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Editor’s notes.** — Section 2083 of D.C. Law 18-111 provided: “The Washington Convention Center Authority shall conduct an operating and financial analysis related to the merger with the District of Columbia Sports and Entertainment Commission (‘DCSEC’), and deliver to the Council by not later than September



30, 2009, a report and plan that includes the following:

- “(1) The costs associated with the merger;
- “(2) Any liabilities and obligations of DCSEC assumed by the new Authority; and

“(3) A plan to reduce expenses and increase revenues associated with DCSEC programs.”

### **§ 10-1202.02a. Transfer of authority of the Armory Board.**

All references to the Armory Board in subchapter I of Chapter 3 of Title 3 [§ 3-301 et seq.], are deemed to be references to the Authority, and the Authority shall have such powers and responsibilities as are created by such references to the Armory Board in subchapter I of Chapter 3 of Title 3 unless the clear meaning requires otherwise.

(Sept. 28, 1994, D.C. Law 10-188, § 202a, as added Mar. 3, 2010, D.C. Law 18-111, § 2081(d), 57 DCR 181.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2081(d) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see

§ 2081(d) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

### **§ 10-1202.02b. Transfer of authorities and functions of the District of Columbia Sports and Entertainment Commission; abolishment of the District of Columbia Sports and Entertainment Commission.**

(a)(1) All authorities and functions of the District of Columbia Sports and Entertainment Commission, established pursuant to Chapter 14 of Title 3 [§ 3-1401 et seq.], are transferred to the Authority, except that the maintenance and operation of the Robert F. Kennedy Memorial Stadium and the nonmilitary section of the Armory shall be transferred to the Department of General Services.

(2) The Authority and the Department of General Services shall enter into a Memorandum of Agreement not later than 60 days before the beginning of each fiscal year that shall set forth the terms and conditions for the Department of General Services to maintain the Robert F. Kennedy Memorial Stadium and the nonmilitary portion of the Armory, including the level of service and the procedures and timing for reimbursement to the Department of General Services for its maintenance and upkeep services at the Robert F. Kennedy Memorial Stadium and the nonmilitary portion of the Armory.

(b) The District of Columbia Sports and Entertainment Commission is abolished.

(Sept. 28, 1994, D.C. Law 10-188, § 202b, as added Mar. 3, 2010, D.C. Law 18-111, § 2081(d), 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 72(a), 59 DCR 6190.)



**Section references.** — This section is referenced in § 10-1202.08c.

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted “Department of General Services” for “Office of Property Management” throughout the section.

**Emergency legislation.** — For temporary (90 day) addition, see § 2081(d) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 2081(d) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Legislative history of Law 19-171.** — See note to § 10-1202.01.

## § 10-1202.02c. Transfer of assets, rights, and obligations of the District of Columbia Sports and Entertainment Commission.

(a)(1) Legal and equitable title to all real property, personal property, records, capital, and intangible assets of the District of Columbia Sports and Entertainment Commission shall transfer, vest, and be titled in the name of the Authority.

(2) All unexpended balances of appropriations, allocations, income, and other funds available to the District of Columbia Sports and Entertainment Commission shall transfer to the Authority and shall be deposited in the Sports and Entertainment Fund.

(3)(A) All lawful existing non-employment and non-employment-related contractual rights and obligations of the District of Columbia Sports and Entertainment Commission shall transfer to the Authority, which shall assume all rights, duties, liabilities, and obligations as a successor in interest.

(B) Notwithstanding subparagraph (A) of this paragraph, the rights of the District of Columbia Sports and Entertainment Commission under section 8.4 of the Lease Agreement, dated March 6, 2006, between the District of Columbia Sports and Entertainment Commission and the Baseball Expos, L.P., as may be amended, shall be assigned ½ to the Mayor and ½ to the Council.

(4) No rights and obligations of employment or employment-related contracts of the District of Columbia Sports and Entertainment Commission, except for lawful rights and obligations of individual employment contracts, shall transfer to the Authority, which shall assume all rights, duties, liabilities, and obligations as a successor in interest.

(5) All other existing rights and obligations, and all causes of actions of the District of Columbia Sports and Entertainment Commission shall transfer to the Authority.

(b) No existing lawful contract or other lawful legal obligation of the District of Columbia Sports and Entertainment Commission transferred pursuant to subsection (a) of this section, shall be abrogated or impaired by the repeal of Chapter 14 of Title 3 [§ 3-1401 et seq.] or the superceding of Mayor’s Order 79-218, dated September 14, 1979, except for any obligation of the District of Columbia Sports and Entertainment Commission to the District of Columbia related to personnel expenses.

(c) Other than with respect to the rights and obligations of employment and employment-related contracts of the District of Columbia Sports and Enter-

tainment Commission not transferred pursuant to subsection (a)(4), nothing in § 10-1202.01 or § 10-1202.02 shall impair the obligations, commitments, pledges, or covenants, or the security made or provided by the District of Columbia Sports and Entertainment Commission; provided, that the liability of the Authority with respect to any such obligation, commitment, pledge, covenant, or security made or provided by the District of Columbia Sports and Entertainment Commission shall be limited to the assets and property of the District of Columbia Sports and Entertainment Commission transferred pursuant to this section and any income derived from such assets.

(Sept. 28, 1994, D.C. Law 10-188, § 202c, as added Mar. 3, 2010, D.C. Law 18-111, § 2081(d), 57 DCR 181.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2081(d) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see

§ 2081(d) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

### § 10-1202.03. General powers of Authority.

In addition to the general delegation of powers contained in § 10-1202.09 and subject to the limitations contained in § 10-1202.04, the Authority shall possess the following powers:

(1) To sue and be sued, including the power to bring actions, complaints, and implead in any judicial, administrative, arbitrational, or other action or proceeding and, to the extent permitted by law, to have actions brought against it, and to be impleaded and to defend in these proceedings;

(2) To have a seal and alter the seal at its pleasure;

(3) To make and alter by-laws, rules and regulations, not inconsistent with law, for the administration and regulation of its business and affairs;

(4) To elect, appoint, or hire officers, employees, advisors, consultants, or other agents of the Authority, including experts and fiscal agents, define their duties, and fix their compensation;

(5) To acquire, by purchase, gift, lease, or otherwise and to own, hold, improve, and use and to sell, convey, exchange, transfer, lease, sublease, and dispose of real and personal property of every kind and character, or any interest therein, for its corporate purposes;

(6) To issue regulations and establish policies for contracting and procurement, provided that these regulations and policies shall provide for the following:

(A) Submission of quarterly reports to the Council regarding the Authority's progress on issues related to local and minority contracting and the hiring of District residents; and

(B) Remedies (including but not limited to cease and desist orders) for noncompliance with any law or regulation contained herein including subchapters VIII and X of Chapter 2 of Title 2, and all successor acts thereto;

(7) To accept loans or grants of money, materials, or property of any kind from the United States, or any agency or instrumentality thereof, or the



District, upon terms and conditions as may be imposed upon the Authority to the extent that the terms and conditions are not inconsistent with the limitations and laws of the District and are otherwise within the powers of the Authority;

(8) To borrow money for any of its corporate purposes and to provide for the payment of the same, as may be permitted under Chapter 2 of Title 1, and the laws of the District;

(9) To issue revenue bonds pursuant to § 10-1202.10;

(10) To enter into contracts, joint ventures, or other agreements with the District, the United States, other public entities, and private entities to achieve its purposes;

(10A) To maintain an office or offices at any location in the District;

(10B) To establish standards for the use of and attendance at its facilities;

(10C) To fix, revise, charge, and collect fees, rents, or other charges for the use of, or attendance at, its facilities and for services rendered in connection with the use of, or attendance at, its facilities;

(10D) To manage parking lots, concessions, and other ancillary properties and services at facilities under its jurisdiction;

(10E) To furnish such services to renters, lessees, and other occupants and users of its facilities as in its judgment is necessary or suitable for carrying out its purposes;

(10F) To provide through its employees, or by the grant of one or more concessions, or both, for the furnishing of services and things for the accommodation of persons admitted to or using any of its facilities or portions of its facilities;

(10G) To provide for the insurance of any property, operations, members of the Board of Directors, officers, agents, or employees of the Authority against any risk or hazard;

(10H) To develop, construct, maintain, operate, acquire, own, equip, improve, rehabilitate, expand, and maintain convention, sports, entertainment, and recreation facilities in the District;

(10I) To establish one or more nonprofit or for-profit subsidiaries to perform any of its functions under this chapter;

(10J) To hold an ownership interest in, and operate, a professional sports team or team franchise on a temporary or permanent basis;

(11) To exercise any power usually possessed by public enterprises or private corporations performing similar functions which is not in conflict with Chapter 2 of Title 1, or the laws of the District;

(12) To sell or dispense, or to permit others to sell or dispense, alcoholic beverages for consumption on the premises, but only upon and within the territorial limits of the property of or under the management and control of the Authority. The Authority shall not have the power to sell or dispense alcoholic beverages in unbroken packages for the purpose of permitting the unbroken packages to be carried off the premises. The Authority shall determine and regulate by resolution the conditions under which the sales or dispensing of alcoholic beverages for consumption on the premises shall be made or shall be permitted, including the hours and days during which the sale or dispensing of alcoholic beverages shall be made or shall be permitted;



(13) To do all things necessary or convenient to carry out the powers expressly provided by this chapter; and

(14) Subject to Council approval by resolution, to enter into agreements or arrangements to limit interest rate risk, to facilitate the issuance of variable rate obligations or obligations with an effective variable rate and to better manage assets; the agreements or arrangements shall only be entered into in conjunction with the issuance of bonds, notes or other obligations by the Authority; and the Authority shall retain the right to discontinue or terminate any such agreement when in the reasonable opinion of the chief financial officer of the Authority it is in the best interest of the Authority.

(Sept. 28, 1994, D.C. Law 10-188, § 203, 41 DCR 5333; Aug. 12, 1998, D.C. Law 12-142, § 2(b), 45 DCR 4826; Mar. 3, 2010, D.C. Law 18-111, § 2081(e), 57 DCR 181.)

**Prior Codifications.** — 1981 Ed., § 9-804.

**Effect of amendments.** — D.C. Law 18-111, in par. (4), substituted “employees, advisors, consultants,” for “employees,”; in par. (10), substituted “contracts, joint ventures, or other agreements” for “contracts”; added pars. (10A) to (10J); and rewrote par. (12), which had read as follows: “(12) To sell or dispense, upon obtaining a license from the Alcoholic Beverage Control Board pursuant to Title 25, or to permit others to sell or dispense, upon obtaining a license from the Alcoholic Beverage Control Board, alcoholic beverages for consumption on the premises, but only upon and within the territorial limits of the property of or under the management and control of the Authority. The Authority shall not have the power to sell or dispense alcoholic beverages in unbroken packages for the purpose of permitting the unbroken packages to be carried off the premises. The Authority shall determine and regulate by resolution the conditions under which the sales or dispensing of alcoholic beverages for consumption on the premises shall be made or shall be permitted;”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2081(e) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(e) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Effective date.** — For effective date of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

## CASE NOTES

### Validity.

Washington Convention Center Authority procurement regulations, issued pursuant to valid statutory authority, are duly promulgated

regulations that have the force and effect of law. *WWC Servs. of San Francisco, Inc. v. Wash. Convention & Sports Auth.*, 998 A.2d 314, 2010 D.C. App. LEXIS 337 (2010).

## § 10-1202.04. Limitations on Authority’s powers.

(a) The Authority may not adopt an inducement resolution or a resolution authorizing a bond issuance, except for the purpose of refinancing, refunding, or reissuing bonds, unless the proposal has been submitted to the Council for a 30-day review period, excluding Saturdays, Sundays, holidays, and days of Council recess. If, during the 30-day review period, the Council does not adopt a resolution disapproving the submitted proposal, the Authority may take

action to implement the proposal. In the event a proposal is disapproved, the Council shall state the reasons for disapproval in the disapproval resolution. The Authority may modify the proposal to address the concerns of the Council, and resubmit the proposal, as modified, for an additional 30-day review period excluding Saturdays, Sundays, holidays, and days of Council recess.

(a-1)(1) Notwithstanding the provisions of subsection (a) of this section, the Authority may, without submission to the Council, adopt inducement resolutions or resolutions authorizing the issuance of bonds and may issue bonds to:

(A) Acquire one or more parcels of real property within the new convention center hotel site; provided, that the Council has approved the contract for the purchase; and

(B) To pay certain costs of the development of the new convention center hotel.

(2) The bonds may be secured, in whole or in part, by:

(A) The tax increment financing note, and security provided therefor, issued pursuant to subchapter II of this chapter;

(B) A mortgage on real property; or

(C) Available revenues, assets, or other property of the Authority (including lease payments assigned to the Authority pursuant to § 10-1202.22), subject to preexisting agreements with holders of the bonds of the Authority.

(b) Except as provided in § 10-1202.13, no revenues collected on behalf of the Authority and transferred to or deposited in the Washington Convention Center Fund established pursuant to § 10-1202.08 shall be commingled with any funds of the District.

(c) With regard to the design of the new convention center:

(1) The Authority shall design and construct a new convention center to minimize the life cycle cost, and dependence on petroleum-based fuels of the facility by utilizing energy efficiency, water conservation, or solar or other renewable energy technologies.

(2) The Authority shall ensure that the design and construction of the new convention center shall employ state-of-the-art design, engineering, and technology to minimize energy consumption per-gross-square-foot to the extent that the payback period for capital costs incurred to reduce annual operating costs shall be less than 10 years.

(3) The Authority may assist the District in public street and alley improvements on, or adjacent to, frontages facing the new convention center. These improvements may include streetscape improvements, landscaping, street furniture, lighting, banners, sidewalks, curbs, or building facades.

(d) The Authority shall in no way interfere with or attempt to acquire site control or ownership of the existing convention center without submission of a resolution to the Council for its approval.

(e) In the event that the Authority constructs the new convention center below ground, the District shall retain ownership of up to 15% of the developed air rights, for the purpose of providing economic development opportunities for community development corporations engaged in neighborhood economic development, with the ability to become a joint-venture partner on commercial



or residential development over the New Convention Center, provided that the sale or lease of the air rights is not needed to finance the new convention center.

(f) Any and all reasonable, necessary, and verified preconstruction costs for the new convention center that are borne by the District government shall be reimbursed by the Authority.

(g)(1) The Authority shall adopt an organizational approach for development of the new convention center whereby the Authority's staff, augmented by management and technical personnel of a Program Manager, or Program Management Consultant, will manage and oversee all activities during every phase of the development program. The Authority shall complete the new convention center construction project using any of the following contracting methods:

(A) When the plans and specifications and the guaranteed maximum price drawings for the new convention center are complete, the Authority shall issue a Request for a Proposal for a developer. On the basis of the submitted proposals, the Authority shall select the developer who shall complete the design and construct the new convention center for a guaranteed price by assembling the necessary team of designers, architects, developers, and others, and posting a performance bond, or obtaining other insurance, to insure that design and time requirements shall be met for the guaranteed price; or

(B) When the plans and specifications and the guaranteed maximum price drawings for the new convention center are complete, the Authority shall issue a Request for a Proposal for a construction manager that shall require proposals containing the construction-manager fee, the guaranteed maximum price of completing the design and constructing the new convention center, and sharing with the Authority any savings between total costs and the guaranteed maximum price. On the basis of the submitted proposals, the Authority shall select the construction manager who shall complete the design and construct the new convention center for a guaranteed price by assembling the necessary team of designers, architects, developers, and others, and posting a performance bond, or obtaining other insurance, to insure that design and time requirements shall be met for the guaranteed price.

(2) The Authority's contract with the developer or construction manager selected pursuant to paragraph (1) of this subsection shall require all developer and construction-manager contracts to comply with subchapters VIII and X of Chapter 2 of Title 2, and all successor acts thereto.

(h) At least 51% of the Authority's employees shall be District residents. At least 51% of every contractor's employees hired after the contractor enters into a contract with the Authority, or with the developer or construction manager, to work on projects of the Authority shall be District residents.

(i) The Authority's contract with the developer or construction manager selected pursuant to subsection (g)(1) of this section shall require the developer or construction manager to demonstrate that the developer or construction manager is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the project.

(j) All operating costs of the existing convention center shall be the responsibility of the Authority after September 28, 1994.



(k) All land and improvements acquired by the Authority to construct the new convention center shall be held in the name of the Authority, except that title to the property shall not be transferred by the Authority to any person or entity other than the District government.

(l) The following shall apply to an agreement to implement the community development fund ("Fund"), as developed with input from many interested organizations, required by section IX of the Memorandum of Agreement By and Among the National Capital Planning Commission, the District of Columbia State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding the Construction and Operation of the Washington Convention Center at the Mount Vernon Square/Shaw Site, dated September 12, 1997 ("MOU"):

(1) The Authority shall transfer the Fund to the Mayor for administration. The following requirements shall be included in the terms of any Invitation for Bids or Request for Proposals issued by the Mayor for the administration of the Fund:

(A) The money in the Fund shall be transferred directly from the Mayor to an established, successful community entity which has the organizational capacity to administer the funds. The money shall include all accrued interest in the Fund from the date of execution of the MOU;

(B) The entity shall be an organization which is tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986, approved October 22, 1986 (68A Stat. 163; 26 U.S.C. § 501(c)(3)), before submitting a proposal;

(C) The entity shall establish that it currently provides funding for neighborhood revitalization activities in the region. The activities shall include assistance in the areas of affordable housing, homeownership assistance, business assistance, employment, and workforce training assistance;

(D) The entity shall be limited to spending levels established by the Mayor concerning overhead and salaries to ensure that substantially all of the money in the Fund passes through to the Shaw community; and

(E) The entity shall submit quarterly reports to the Mayor that, at a minimum, document the use and disbursement of money in the Fund.

(2) The Mayor may audit and investigate the records of the entity receiving the money in the Fund to ensure that excessive expenses are not incurred for salaries or overhead and that no new organizations are created to manage money allocated from the Fund.

(3) The Mayor shall establish guidelines for the return of the money in the Fund remaining after the completion of the program, ensure that the entity follows generally accepted accounting principles, and ensure that the entity's accounting and financial management practices are sound.

(4) When an agreement has been reached between the Mayor and a community entity for administration of the Fund, the agreement shall be submitted to the Council for its review and affirmative approval by resolution.

(5) The Fund shall be maintained in a separate segregated interest-bearing account by the Mayor.

(Sept. 28, 1994, D.C. Law 10-188, § 204, 41 DCR 5333; Apr. 3, 2001, D.C. Law 13-255, § 2, 48 DCR 727; Sept. 19, 2006, D.C. Law 16-163, § 114(b), 53 DCR

5430; Apr. 15, 2008, D.C. Law 17-144, § 3(b), 55 DCR 2527; Oct. 22, 2009, D.C. Law 18-78, § 2(b), 56 DCR 6959; Mar. 3, 2010, D.C. Law 18-111, § 2081(f), 57 DCR 181.)

**Section references.** — This section is referenced in § 2-223.01, § 10-1202.02, § 10-1202.03, § 10-1202.06, § 10-1202.08, and § 10-1202.10.

**Prior Codifications.** — 1981 Ed., § 9-805.

**Effect of amendments.** — D.C. Law 13-255 added subsec. (l).

D.C. Law 17-144, in subsec. (a-1)(1)(B), deleted “and the expansion of the new convention center” following “hotel”.

D.C. Law 18-78, in subsec. (a-1)(2)(C), substituted “property of the Authority (including lease payments assigned to the Authority pursuant to § 10-1202.22)” for “property of the Authority”.

D.C. Law 18-111, in subsec. (b), substituted “Washington Convention Center Fund” for “Washington Convention Center Authority Fund”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 114(b) of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

For temporary (90 day) amendment of section, see § 2(b) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

For temporary (90 day) amendment of section, see § 2081(f) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(f) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see His-

torical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 13-255.** — Law 13-255, the “Convention Center Authority Shaw Community Development Fund Amendment Act of 2000”, was introduced in Council and assigned Bill No. 13-680, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on December 22, 2000, it was assigned Act No. 13-542 and transmitted to both Houses of Congress for its review. D.C. Law 13-255 became effective on April 3, 2001.

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1202.01.

**Legislative history of Law 17-144.** — For Law 17-144, see notes following § 10-1202.01.

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.01.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Resolutions.** — Resolution 15-95, the “Shaw Community Development Fund Approval Resolution of 2003”, was approved effective May 6, 2003.

Resolution 15-371, the “Transfer of Site Control of the Old Washington Convention Center Property to the Washington Convention Center Authority Approval Resolution of 2003”, was approved effective December 16, 2003.

**Editor’s notes.** — Washington Convention Center Authority Dedicated Tax Revenue Bond Resolution of 1998: Pursuant to Resolution 12-591, effective July 7, 1998, the Council approved the Washington Convention Center Authority’s proposal for the issuance of Dedicated Tax Revenue Bonds to finance a New Convention Center and to authorize an increase in the capital replacement reserve and the operating reserve.

## § 10-1202.05. Establishment of Board of Directors.

(a)(1) The Authority shall be governed by a Board of Directors (“Board”) which shall be comprised of 11 members, one of whom shall be the Chief Financial Officer of the District of Columbia and one of whom shall be designated by the Mayor, both of whom shall serve as ex-officio voting members of the Board.

(2) The 9 public Board members shall be appointed by the Mayor with the advice and consent of the Council by resolution, in accordance with § 1-523.01.

(3) Of the 9 public Board members, 1 shall be from the hotel industry, 1 shall be from the restaurant industry, 1 shall be from organized labor, and the remaining 6 shall have proven expertise in municipal finance, business



finance, economic development, construction, sports, entertainment, or tourism.

(4) The members of the Board of Directors of the Washington Convention Center Authority serving on March 3, 2010, shall become members of the Board of Directors of the Washington Convention and Sports Authority and shall serve the remainder of their terms and may be reappointed to full terms as members of the Board of Directors of the Washington Convention and Sports Authority.

(5)(A) In addition to the members of the Board of Directors of the Washington Convention and Sports Authority serving pursuant to paragraph (4) of this subsection, the following 2 persons shall begin serving as public members on the Board of Directors of the Washington Convention and Sports Authority on March 3, 2010:

(i) The person who was serving as vice chairman of the District of Columbia Sports and Entertainment Commission Board of Directors on May 12, 2009; and

(ii) The President of the Hotel Association.

(B) The 2 public members appointed pursuant to this paragraph shall serve 4-year terms and may be reappointed.

(C) The wards of residence of the 2 public members appointed pursuant to this paragraph shall not be considered for the purposes of the restriction imposed by subsection (f) of this section.

(b)(1) All Board terms shall be 4-year terms; provided, the term of a public Board member who is serving in his or her second consecutive term on May 15, 2001, shall terminate on December 31, 2003.

(2) Repealed.

(c) Repealed.

(d) Any person appointed to fill a vacancy on the Board shall be appointed only for the unexpired term of the Board member whose vacancy is being filled. If any Board member is appointed to fill an unexpired term with more than 2 years remaining in the term, upon expiration of the term, that Board member shall be deemed to have served a full 4-year term.

(e) The Mayor shall appoint a chairperson of the Board from among the 9 public Board members with the advice and consent of the Council by resolution.

(f) No more than 2 public Board members may be appointed from any 1 ward of the District.

(g) Each Board member shall be a resident of the District or establish residency not later than 6 months after appointment to the Board. The Mayor shall remove any Board member for failure to establish or maintain residency or for misconduct or neglect of duty (as defined by the Board in its by-laws) after notice to the Board member.

(h) Should a Board member be indicted for the commission of a felony, the Board member shall be automatically suspended from serving on the Board. Upon a final determination of guilt or innocence, the term of the Board member shall, respectively, be automatically terminated or reinstated.

(i) The Board shall meet no less than once every 60 days and shall be subject to the provisions of § 1-207.42.



(j) Six Board members shall constitute a quorum for the transaction of business, and an affirmative vote of a majority shall be necessary for any valid Board action. For purposes of issuing bonds, and adopting budgets and financial plans, the Chief Financial Officer of the District with respect to the issuance of bonds and the adoption of budgets and financial plans, shall be a member of the majority. No vacancy in membership, except a vacancy of the Chief Financial Officer of the District, shall impair the right of a quorum to exercise all rights and perform all duties of the Board.

(k) Board members shall serve without compensation, except that Board members may be reimbursed for all reasonable and necessary expenses incurred while engaged in official duties of the Board.

(l) The powers of the Board shall not be limited by any articles of incorporation or by-laws adopted by the Interim Board established pursuant to § 10-1202.17.

(Sept. 28, 1994, D.C. Law 10-188, § 205, 41 DCR 5333; Aug. 12, 1998, D.C. Law 12-142, § 2(c), 45 DCR 4826; Oct. 1, 2002, D.C. Law 14-184, § 2, 49 DCR 6059; Oct. 19, 2002, D.C. Law 14-213, § 16, 49 DCR 8140; Mar. 30, 2004, D.C. Law 15-112, § 2, 51 DCR 1348; Mar. 3, 2010, D.C. Law 18-111, § 2081(g), 57 DCR 181.)

**Section references.** — This section is referenced in § 1-523.01.

**Prior Codifications.** — 1981 Ed., § 9-806.

**Effect of amendments.** — D.C. Law 14-184, in subsec. (b)(1), substituted “terms, and no” for “terms. No”, and inserted “; provided, the term of a public Board member who is serving in his or her second consecutive term on May 15, 2001, shall terminate on December 31, 2003” before the final period.

D.C. Law 14-213, in subsec. (a)(2), substituted “resolution, in accordance with § 1-523.01” for “resolution”.

D.C. Law 15-112, in subsec. (b)(1), deleted “, and no Board member shall serve more than 2 consecutive terms” following “4 year terms”.

D.C. Law 18-111 rewrote subsecs. (a), (j), and (k); and, in subsec. (e), substituted “9” for “7”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Washington Convention Center Authority Oversight and Management Continuity Temporary Amendment Act of 2001 (D.C. Law 14-90, March 19, 2002, law notification 49 DCR 2995).

For temporary (225 day) amendment of section, see § 2 of Washington Convention Center Authority Oversight and Management Continuity Temporary Amendment Act of 2002 (D.C. Law 14-119, May 2, 2002, law notification 49 DCR 4394).

For temporary (225 day) amendment of section, see § 2 of Washington Convention Center Authority Term Limit Temporary Amendment Act of 2003 (D.C. Law 15-92, March 10, 2004, law notification 51 DCR 3612).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of Washington Convention Center Authority Oversight and Management Continuity Emergency Amendment Act of 2001 (D.C. Act 14-189, November 29, 2001, 48 DCR 11216).

For temporary (90 day) amendment of section, see § 2 of Washington Convention Center Authority Oversight and Management Continuity Emergency Amendment Act of 2002 (D.C. Act 14-228, January 14, 2002, 49 DCR 690).

For temporary (90 day) amendment of section, see § 2 of Washington Convention Center Authority Oversight and Management Continuity Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-344, April 24, 2002, 49 DCR 4298).

For temporary (90 day) amendment of section, see § 2 of Washington Convention Center Authority Term Limit Emergency Amendment Act of 2003 (D.C. Act 15-224, November 25, 2003, 50 DCR 10703).

For temporary (90 day) amendment of section, see § 2081(g) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(g) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

**Legislative history of Law 14-184.** — Law 14-184, the “Washington Convention Center Authority Oversight and Management Continuity Amendment Act of 2002”, was introduced in Council and assigned Bill No. 14-521, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on May 7, 2002, and June 4, 2002, respectively. Signed by the Mayor on June 21, 2002, it was assigned Act No. 14-384 and transmitted to both Houses of Congress for its review. D.C. Law 14-184 became effective on October 1, 2002.

**Legislative history of Law 14-213.** — For Law 14-213, see notes following § 10-801.

**Legislative history of Law 15-112.** — Law 15-112, the “Washington Convention Center Authority Term Limit Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-427, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 2, 2003, and January 6, 2004, respectively. Signed by the Mayor on January 27, 2004, it was assigned Act No. 15-299 and transmitted to both Houses of Congress for its review. D.C. Law 15-112 became effective on March 30, 2004.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Effective date.** — For effective date of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

## § 10-1202.06. Duties of the Board.

(a) The Board shall have the following general duties:

(1) Adopt and publish internal operating rules for the conduct of Board meetings;

(2) Develop policies for the management, maintenance, and operation of the new convention center and District sports and entertainment facilities, including concessions, vehicle parking facilities, or other related facilities;

(3) Adopt rules and regulations consistent with Chapter 5 of Title 2, governing the operation and use of the new convention center and District sports and entertainment facilities;

(4) Develop and establish a personnel system with rules and regulations setting forth minimum standards for all employees including pay, contract terms, vacations, leave, retirement, residency requirements, health and life insurance, employee disability and death benefits. The personnel system shall be in place no later than 6 months after September 28, 1994. The personnel rules and regulations shall require that no employee shall engage in outside employment or private business activity or have any direct or indirect financial interest that conflicts, or would appear to conflict, with the fair, impartial, and objective performance of the employee’s assigned duties and responsibilities;

(5) Select, employ, and fix the compensation for the President and Chief Executive Officer, and for the staff of the Board, as it deems necessary. All staff shall serve at the pleasure of the Board; and

(6) Delegate to the President and Chief Executive Officer by a majority vote of the Board, any authority granted to the Board under this subsection.

(b) The Board shall prepare and submit to the Mayor an operating budget for fiscal year 1995 and all subsequent fiscal years.

(1) For the purposes of this subsection, the term “operating budget” shall include only funds for personnel, show operations, travel, development, marketing service contracts entered into pursuant to § 10-1202.08a, and Board expenses.

(2) For the purposes of this subsection, the term “operating budget” shall



not include funds or payments relating to debt service, repairs, maintenance, or capital improvements.

(c) The Board shall submit the fiscal year 1995 operating budget as soon as practicable. The Board shall submit the fiscal year 1996 operating budget and all subsequent operating budgets for the Authority to the Mayor on the date that other District departments and agencies are required to submit their budgets to the Mayor.

(d) The Board shall include with its operating budget submission the following information:

(1) A list of any memoranda, agreements, and contracts in excess of \$25,000 which relate directly to personnel, show operations, travel, development, or Board expenses; and

(2) A financing plan for at least the next 5 years showing the following:

(A) Projected income by source;

(B) Projected operating expenditures by object class and program;

(C) Capital expenditures and financing;

(D) Balances and changes in reserves; and

(E) Debt service coverage.

(e) The Board shall submit, within 120 days after the end of each District government fiscal year, to the Mayor, the Council, and the Auditor of the District of Columbia, a detailed annual report setting forth a description of the Authority's operations and accomplishments during the year, including an objective evaluation of the degree of success attained, including:

(1) An analysis of event attendance;

(2) Income and expenditures of the Authority during the year in accordance with sources and object classes established by the financial management system, budgeted, and audited actual;

(3) Audited actual capital expenditures and financing;

(4) Audited asset, liability, and fund equity balances at the end of the fiscal year;

(5) An analysis of work force;

(6) Recommendations as to the future management and operation of Authority; and

(7) Other information as shall be deemed pertinent by the Mayor, the Council, and the Auditor of the District of Columbia.

(f) The Board shall contract with the independent certified public accountant who annually audits the books and accounts of the District of Columbia to audit the books and accounts of the Authority and transmit the audit to the Mayor, the Council, and the Auditor of the District of Columbia within 120 days of the end of the District government fiscal year.

(g) The Board shall annually develop and adopt a multiyear financial plan no less than 90 days prior to the beginning of each fiscal year. The Board shall transmit the multiyear financial plan to the Mayor and Council within 10 days of its adoption. Each multiyear financial plan shall contain the following:

(1) A description of the Authority's revenues, expenditures, reserves, debt service, cash resources and uses, and capital-improvements expenditures and financing for at least the next 5 years;



(2) If the budget of the Authority for the upcoming fiscal year is not balanced, a statement of the means by which it will be brought into balance; and

(3) Any other matters that the Authority, the Mayor, or the Council deems relevant.

(h) The Board shall submit final financial requirements and a feasibility analysis for the construction of the new convention center to the Mayor and Council within 24 months of September 28, 1994.

(h-1)(1) If the guaranteed maximum price required by § 10-1202.04 requires an adjustment in the final financial requirements and feasibility analysis required by subsection (h) of this section, the Board shall submit revised financial requirements for the construction of the New Convention Center to the Council and the Mayor.

(2) This subsection shall apply as of February 27, 1997.

(i) The Board shall carry comprehensive liability insurance sufficient to protect the Authority, the Board, the members, officers, and employees of the Board, and the lessees or occupants, and the District government against risks associated with the exercise by the Authority or the Board of any authority conferred by this chapter, provided, however, that no Board member shall be personally liable for any act or omission of the Authority except with regard to fraudulent or criminally prosecutable acts by any Board member in connection with an act or omission of the Authority.

(Sept. 28, 1994, D.C. Law 10-188, § 206, 41 DCR 5333; Aug. 12, 1998, D.C. Law 12-142, § 2(d), 45 DCR 4826; Mar. 3, 2010, D.C. Law 18-111, § 2081(h), 57 DCR 181; Apr. 8, 2011, D.C. Law 18-356, § 2(a), 58 DCR 760.)

**Section references.** — This section is referenced in § 10-1203.05.

**Prior Codifications.** — 1981 Ed., § 9-807.

**Effect of amendments.** — D.C. Law 18-111, in subsec. (a)(2), substituted “the new convention center and District sports and entertainment facilities,” for “the Existing Convention Center and the New Convention Center”; in subsec. (a)(3), substituted “the new convention center and District sports and entertainment facilities” for “the Existing Convention Center and the New Convention Center”; in subsec. (a)(5), substituted “for the Chief Executive Officer and General Manager” for “for, a General Manager to the Existing Convention Center and New Convention Center”; and, in subsec. (a)(6), substituted “Chief Executive Officer and General Manager” for “General Manager”.

D.C. Law 18-356, in subsec. (a)(5), substituted “for the President and Chief Executive Officer” for “for the Chief Executive Officer and General Manager”; and, in subsec. (a)(6), substituted “President and Chief Executive Officer” for “Chief Executive Officer and General Manager”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(b) of Washington Convention Center

Authority Act of 1994 Time Extension Temporary Amendment Act of 1996 (D.C. Law 11-262, April 25, 1997, law notification 44 DCR 2860).

Section 2(a) of D.C. Law 18-266, in subsec. (a)(5), substituted “for the President and Chief Executive Officer” for “for the Chief Executive Officer and General Manager”; and, in subsec. (a)(6), substituted “President and Chief Executive Officer” for “Chief Executive Officer and General Manager”.

Section 5(b) of D.C. Law 18-266 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary amendment of section, see § 2(a) of the Washington Convention Center Authority Act of 1994 Emergency Amendment Act of 1996 (D.C. Act 11-393, October 1, 1996, 43 DCR 5430), and § 2(a) of the Washington Convention Center Authority Act of 1994 Time Extension Emergency Act of 1996 (D.C. Act 11-509).

For temporary (90 day) amendment of section, see § 2081(h) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(h) of Fiscal Year Budget Support Congressional Review Emergency Amend-

ment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 2(a) of Washington Convention and Sports Authority Emergency Amendment Act of 2010 (D.C. Act 18-504, July 30, 2010, 57 DCR 7578).

For temporary (90 day) amendment of section, see § 2(a) of Washington Convention and Sports Authority Congressional Review Emergency Amendment Act of 2010 (D.C. Act 18-580, October 19, 2010, 57 DCR 10113).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see His-

torical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Legislative history of Law 18-356.** — For history of Law 18-356, see notes under § 10-306.

**Effective date.** — For effective date of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

## § 10-1202.07. President and Chief Executive Officer; appointment and duties.

(a) The Board, by majority vote, shall employ a President and Chief Executive Officer to run the day-to-day affairs of the new convention center, District sports and entertainment facilities, and the Authority. The President and Chief Executive Officer shall be a resident of the District and shall remain a District resident for the duration of his or her employment by the Authority. Failure to maintain District residency shall result in a forfeiture of the position.

(a-1) The General Manager of the Washington Convention Center Authority serving on March 3, 2010, shall become the President and Chief Executive Officer of the Authority.

(b) The President and Chief Executive Officer shall perform the following duties and responsibilities:

- (1) Assist in the preparation of the budgets and annual reports;
- (2) Administer all operating policies, rules, and regulations adopted by the Board;
- (3) Employ personnel;
- (4) Promote and secure bookings, events, and productions for the new convention center and District sports and entertainment facilities; and
- (5) Perform such other duties as may be authorized by the Board for the effective and efficient management of the Authority and its facilities.

(c) The termination of the President and Chief Executive Officer shall require the concurrence of a majority of the Board.

(Sept. 28, 1994, D.C. Law 10-188, § 207, 41 DCR 5333; Feb. 6, 2008, D.C. Law 17-108, § 210(a), 54 DCR 10993; Mar. 25, 2009, D.C. Law 17-353, § 223(e)(1), 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, § 2081(i), 57 DCR 181; Apr. 8, 2011, D.C. Law 18-356, § 2(b), 58 DCR 760.)

**Section references.** — This section is referenced in § 10-1202.07a.

**Prior Codifications.** — 1981 Ed., § 9-808.

**Effect of amendments.** — D.C. Law 17-108, in subsec. (a), inserted "The General Manager shall be a resident of the District and shall remain a District resident for the duration of

his or her employment by the Authority. Failure to maintain District residency shall result in a forfeiture of the position."

D.C. Law 17-353 validated a previously made technical correction in subsec. (a).

D.C. Law 18-111 rewrote the section.

D.C. Law 18-356, in the first sentence of



subsec. (a), substituted “a President and Chief Executive Officer” for “a Chief Executive Officer and General Manager”; in the second sentence of subsec. (a), substituted “The President and Chief Executive Officer” for “The Chief Executive Officer and General Manager”; and, in the section heading and subsecs. (a-1), (b), and (c), substituted “President and Chief Executive Officer” for “Chief Executive Officer and General Manager”.

**Temporary Amendment of Section.** — Section 2(b) of D.C. Law 18-266, in the section heading and subsecs. (a-1), (b), and (c), substituted “President and Chief Executive Officer” for “Chief Executive Officer and General Manager”; and, in subsec. (a), substituted “a President and Chief Executive Officer” for “a Chief Executive Officer and General Manager” in the first sentence, and substituted “The President and Chief Executive Officer” for “The Chief Executive Officer and General Manager” in the second sentence.

Section 5(b) of D.C. Law 18-266 provided that the act shall expire after 225 days of its having taken effect.

**Temporary Addition of Section.** — Section 2(c) of D.C. Law 18-266 added a section to read as follows:

“Sec. 207a. References deemed to refer to the President and Chief Executive Officer of the Washington Convention and Sports Authority.

“References in any District law, rule, regulation, or delegation of authority to the General Manager of the Washington Convention Center Authority, other than in section 207(a-1), or the Chief Executive Officer and General Manager of the Washington Convention and Sports Authority, shall be deemed to refer to the President and Chief Executive Officer of the Washington Convention and Sports Authority.”.

Section 5(b) of D.C. Law 18-266 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2081(i) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(i) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 2(b) of Washington Convention and Sports Authority Emergency Amendment Act of 2010 (D.C. Act 18-504, July 30, 2010, 57 DCR 7578).

For temporary (90 day) addition of section, see § 2(c) of Washington Convention and Sports Authority Emergency Amendment Act of 2010 (D.C. Act 18-504, July 30, 2010, 57 DCR 7578).

For temporary (90 day) amendment of section, see § 2(b) of Washington Convention and Sports Authority Congressional Review Emergency Amendment Act of 2010 (D.C. Act 18-580, October 19, 2010, 57 DCR 10113).

For temporary (90 day) addition of section, see § 2(c) of Washington Convention and Sports Authority Congressional Review Emergency Amendment Act of 2010 (D.C. Act 18-580, October 19, 2010, 57 DCR 10113).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 17-108.** — Law 17-108, the “Jobs for D.C. Residents Amendment Act of 2007”, was introduced in Council and assigned Bill No. 17-185 which was referred to the Committee on Workforce Development and Government Operations. The Bill was adopted on first and second readings on July 10, 2007, and October 2, 2007, respectively. Signed by the Mayor on October 26, 2007, it was assigned Act No. 17-172 and transmitted to both Houses of Congress for its review. D.C. Law 17-108 became effective on February 6, 2008.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 10-1016.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Legislative history of Law 18-356.** — For history of Law 18-356, see notes under § 10-306.

## § 10-1202.07a. References deemed to refer to the President and Chief Executive Officer of the Washington Convention and Sports Authority.

References in any District of Columbia law, rule, regulation, or the delegation of authority to the General Manager of the Washington Convention Center Authority, other than in § 10-1202.07(a-1), or the Chief Executive Officer and General Manager of the Washington Convention and Sports Authority shall be deemed to refer to the President and Chief Executive Officer of the Washington Convention and Sports Authority.



(Sept. 28, 1994, D.C. Law 10-188, § 207a, as added Apr. 8, 2011, D.C. Law 18-356, § 2(c), 58 DCR 760.)

**Legislative history of Law 18-356.** — For history of Law 18-356, see notes under § 10-306.

### **§ 10-1202.08. Washington Convention Center Fund; transfer and pledge of revenues.**

(a) There is established the “Washington Convention Center Fund” (“Convention Center Fund”) to be operated by the Authority.

(b) Dedicated taxes collected by the Mayor, as an agent for the Authority and the monies in the Convention Center Fund shall not be a part of, nor lapse into, the General Fund of the District of Columbia, nor the Sports and Entertainment Fund, except as provided in § 10-1202.13.

(c)(1) Any and all dedicated taxes collected by the Mayor as an agent for the Authority shall be transferred upon receipt to the Convention Center Fund for the payment of the costs of the new convention center, expenses necessary for debt service, reserve funds, repair, maintenance, marketing service contracts and all other expenses of operating and managing the Authority.

(2) The Board shall submit for Council review the detailed guidelines established by the Authority stating the types of expenditures permissible under Authority policy.

(d) Any pledge by the Authority of any revenues on deposit in the Convention Center Fund shall be effective, valid, and binding from the time the pledge is made. The pledged revenues, once deposited in the Convention Center Fund, shall be immediately subject to the lien of the pledge, whether or not there has been any physical delivery. The lien of any pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against any person receiving the distribution of tax revenues, whether or not the parties have notice of the pledge. The bond resolution of the Authority by which the pledge of the proceeds of any taxes is created is not required to be filed or recorded.

(e) The District pledges to and agrees with the Authority and any holders of the bonds, notes or other obligations issued by the Authority and secured by the Convention Center Fund that the District shall not limit, restrict, or in any way impair the collection, transfer, deposit, or disbursement of revenues in the Convention Center Fund until the principal of, premium if any, and interest on the Authority debt has been paid and discharged.

(f) Except as provided in § 10-1202.04(b), all assets and liabilities of the Washington Convention Center Enterprise Fund, established pursuant to § 10-1215 [repealed], shall be transferred to the Fund.

(Sept. 28, 1994, D.C. Law 10-188, § 208, 41 DCR 5333; Aug. 12, 1998, D.C. Law 12-142, § 2(e), 45 DCR 4826; Mar. 3, 2010, D.C. Law 18-111, § 2081(j), 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 72(b), 59 DCR 6190.)

**Cross references.** — Collection of sales tax and transfer to Washington Convention Center Authority, see §§ 47-2002.02, 47-2002.03.

**Section references.** — This section is referenced in § 2-1217.01, § 2-1217.33a, § 2-1217.34a, § 2-1217.71, § 2-1217.131, § 10-1202.04, § 10-1203.07, § 10-1221.01, § 10-1801, § 47-2002.03, and § 47-2202.02.

**Prior Codifications.** — 1981 Ed., § 9-809.

**Effect of amendments.** — D.C. Law 18-111, in the section heading, deleted “Authority” following “Center”; in subsec. (a), substituted “Washington Convention Center Fund” (“Convention Center Fund”) for “Washington Convention Center Authority Fund” (“Fund”); in subsec. (b), substituted “Convention Center Fund” for “Fund” and substituted “District of Columbia, nor the Sports and Entertainment Fund,” for “District,”; in subsec. (c)(1), substituted “Convention Center Fund” for “Fund” and substituted “new convention center” for “New Convention Center”; in subsec. (d), substituted “deposit in the Convention Center Fund” for “deposit in the Fund” and substituted “deposited in the Convention Center Fund” for “deposited in the Fund”; and, in subsec. (e), substituted “secured by the Convention Center Fund” for “secured by the Fund” and substituted “revenues in the Convention Center Fund” for “revenues in the Fund”.

The 2012 amendment by D.C. Law 19-171

made a technical correction to D.C. Law 18-111 which did not affect this section as codified.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2081(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Legislative history of Law 19-171.** — See note to § 10-1202.01.

**Effective date.** — For effective date of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

**Editor’s notes.** — Expenditures for Convention Center activities: For provisions permitting the Washington Convention Center Authority to expend revenues for Convention Center activities, see § 47-396.1.

## § 10-1202.08a. Establishment of the Washington Convention Center Marketing Fund; marketing service contracts.

(a) There is established the Washington Convention Center Marketing Fund (“Marketing Fund”) to be maintained by the Authority to promote conventions, tourism, and leisure travel in the District and the hosting of sporting events, sports teams, recreational events, and entertainment events in the District.

(b) Monies in the Marketing Fund shall not be a part of, nor lapse into, the General Fund of the District. The Marketing Fund shall be audited at least once each year and a report of the audit shall be published by the Authority.

(c) The total dollar amount the Authority shall allocate to the Marketing Fund shall be based on, as nearly as practical, an amount equal to not less than 17.4% of the amount collected each year from the tax imposed by §§ 47-2002.02(1) and 47-2202.01(1). The Authority shall deposit monthly an amount equal to not less than 17.4% of the amount as collected from the tax imposed by §§ 47-2002.02(1) and 47-2202.01(1) into the Marketing Fund.

(d) Where applicable, the marketing service contracts that the Authority may enter into shall include information on general and specific responsibilities, performance standards, pricing, financial reports and data, associated services, cooperative efforts with the Authority and the District, duration and termination of agreements, proprietary work product, notices, and remedies.



All money received from the Authority under a marketing services contract shall be separately accounted for and subject to verification by audit. The Authority shall have the right at any time to terminate any marketing service contract for cause. In the event of termination for cause by the Authority, the services to be performed under the terms of the terminated marketing service contract shall be procured by request for proposals made pursuant to rules for the procurement of goods and services adopted by the Board.

(e) The marketing service contracts shall include a contract with:

(1) Destination, DC (formerly, the Washington, DC Convention and Tourism Corporation), pursuant to which Destination, DC shall be designated as the primary contractor to:

(A) Market and sell meetings and conventions for the Washington Convention Center and hotels in the District of Columbia;

(B) Market and promote the District of Columbia as a destination; and

(C) Increase revenue to the District of Columbia and the Authority by maximizing sales of hotel rooms and restaurant meals;

(2) The D.C. Chamber of Commerce, pursuant to which the D.C. Chamber of Commerce shall be designated as the primary contractor to promote participation by local, small, and minority businesses in the hospitality industry, especially through neighborhood and cultural tourism; and

(3) The Greater Washington Ibero American Chamber of Commerce, for the purpose of pursuit of special projects, as designated by the Authority.

(e-1) The marketing service contracts may include contracts with:

(1) The DC Chamber of Commerce, pursuant to which the DC Chamber of Commerce shall be designated as the primary contractor to promote participation by local, small, and minority businesses in the hospitality industry, especially through neighborhood and cultural tourism; and

(2) The Greater Washington Hispanic Chamber of Commerce (formerly known as the Greater Washington Ibero American Chamber of Commerce), for the purpose of pursuit of special projects, as designated by the Authority.

(f) The obligation of the Authority to make any payment pursuant to any marketing service contract and the amount thereof shall be subject, and subordinate, in all respects, to the obligation of the Authority to apply any amount deposited or required to be deposited in any fund or account established or maintained pursuant to any resolution, indenture, or trust agreement adopted by the Authority relating to any bonds, notes, or other obligations issued by the Authority pursuant to § 10-1202.10 in accordance with the provisions of such resolution, indenture, or trust agreement.

(g) Before entering into any marketing contract that is a multiyear contract or in excess of \$1 million during a 12-month period, the Authority shall submit the contract to the Council for review and approval under § 2-352.02.

(h) Beginning in fiscal year 2013 and each fiscal year thereafter, the Chief Financial Officer shall transfer \$3 million from the General Fund of the District of Columbia to supplement the Marketing Fund.

(i)(1) In addition to any other limitation applicable under subsection (e)(1) of this section, funds transferred pursuant to subsection (h) of this section shall be limited to Destination DC-led advertising programs with the specific



purpose to increase tourism and convention travel to the District of Columbia and further the purpose of the marketing service contracts entered into pursuant to subsection (e) of this section and used only for:

- (A) Targeted online advertising;
- (B) Search engine marketing;
- (C) Print media;
- (D) Broadcast media;
- (E) Social media marketing;
- (F) Outdoor media (billboards/signage);
- (G) Direct-to-consumer email campaigns; and
- (H) Pop-up experiential marketing opportunities.

(2) All uses of funds transferred pursuant to subsection (h) of this section shall be subject to mandatory return-on-investment analysis as determined by the Authority's marketing service contract oversight functions.

(3) Any funds transferred pursuant to subsection (h) of this section that are used outside the scope and intent of this subsection, as determined by the Authority pursuant to its marketing service contract oversight function, shall lead to the automatic revocation of remaining funds transferred at the beginning of that fiscal year pursuant to subsection (h) of this section and their reversion to the General Fund of the District of Columbia.

(Sept. 28, 1994, D.C. Law 10-188, § 208a, as added Aug. 12, 1998, D.C. Law 12-142, § 2(f), 45 DCR 4826; Apr. 13, 1999, D.C. Law 12-219, § 2, 46 DCR 288; Apr. 3, 2001, D.C. Law 13-259, § 2, 48 DCR 772; June 12, 2003, D.C. Law 14-310, § 7, 50 DCR 1092; Nov. 13, 2003, D.C. Law 15-39, § 1102, 50 DCR 5668; Oct. 20, 2005, D.C. Law 16-33, § 1252, 52 DCR 7503; Mar. 3, 2010, D.C. Law 18-111, § 2081(k), 57 DCR 181; Sept. 20, 2012, D.C. Law 19-168, § 7143, 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 213, 59 DCR 6190.)

**Section references.** — This section is referenced in § 10-1202.06.

**Prior Codifications.** — 1981 Ed., § 9-809.1.

**Effect of amendments.** — D.C. Law 13-259, in subsec. (d), inserted the second sentence; in subsec. (e)(1)(C), deleted "promote neighborhood and cultural tourism in the District and" following "primary contractor to", substituted "hospitality industry, especially through neighborhood and cultural tourism" for "hospitality industry"; added subsec. (e)(2); and rewrote subsec. (g) which formerly read:

"(g) Any marketing contracts that exceed the specified dollar amounts contained in section III.A.1. or section 3(a)(1) of the Washington Convention Center Contract Nos. 1-99, 2-99, 3-99, and 4-99, as approved by the Council, shall be submitted to the Council for a 60-day period of review and approval. No additional marketing contracts shall be approved by the Authority without Council review and approval."

D.C. Law 15-39 rewrote subsec. (e).

D.C. Law 14-310, in subsec. (e), validated previously made technical corrections.

D.C. Law 16-33, in subsec. (b), substituted "District. The Marketing Fund shall be audited at least once each year and a report of the audit shall be published by the Authority." for "District, except as provided in § 10-1202.13."

D.C. Law 18-111 rewrote subssecs. (a) and (e); in subsec. (c), substituted "the Authority shall allocate to the Marketing Fund" for "of the marketing service contracts"; in subsec. (d), substituted "the marketing service contracts that the Authority may enter into" for "the marketing service contracts"; and added subsec. (e-1).

The 2012 amendment by D.C. Law 19-168 added (h) and (i).

The 2012 amendment by D.C. Law 19-171 substituted "§ 2-352.02" for "§ 2-301.05a" in (g).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 3 of Sex Offender Registration Risk Assessment Clarification and Convention Center

Marketing Service Contracts Temporary Amendment Act of 1998 (D.C. Law 12-197, March 26, 1999, law notification 46 DCR 3423).

**Emergency legislation.** — For temporary amendment of section, see § 3 of the Sex Offender Registration Risk Assessment Clarification and Convention Center Marketing Service Contracts Emergency Amendment Act of 1998 (D.C. Act 12-427, July 29, 1998, 45 DCR 5725), § 3 of the Sex Offender Registration Risk Assessment Clarification and Convention Center Marketing Service Contracts Emergency Amendment Act of 1998 (D.C. Act 12-508, November 4, 1998, 45 DCR 9174), and § 3 of the Sex Offender Registration Risk Assessment Clarification and Convention Center Marketing Service Contracts Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-9, February 8, 1999, 46 DCR 2317).

For temporary (90 day) amendment of section, see § 2 of the Washington Convention Center Marketing Emergency Amendment Act of 2000 (D.C. Act 13-585, January 31, 2001, 48 DCR 1929).

For temporary (90 day) amendment of section, see § 1102 of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 1102 of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

For temporary (90 day) amendment of section, see § 1252 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2081(k) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(k) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 12-142.** — Law 12-142, the “Washington Convention Center Authority Financing Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-379, which was referred to the Committee on Economic Development and the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 2, 1998, and June 16, 1998, respectively. Signed by the Mayor on June 23, 1998, it was assigned Act No. 12-402 and transmitted to both Houses of Congress for its review. The legislation became effective on August 12, 1998, the date that the President of the United States signed P.L. 105-227, which waived the 30-day Congressional review period for this law.

**Legislative history of Law 12-219.** — Law 12-219, the “Washington Convention Center Authority Second Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-806, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on December 9, 1998, it was assigned Act No. 12-534 and transmitted to both Houses of Congress for its review. D.C. Law 12-219 became effective on April 13, 1999.

**Legislative history of Law 13-259.** — Law 13-259, the “Washington Convention Center Marketing Amendment Act of 2000,” was introduced in Council and assigned Bill No. 13-876, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on December 21, 2000, it was assigned Act No. 13-547 and transmitted to both Houses of Congress for its review. D.C. Law 13-259 became effective on April 3, 2001.

**Legislative history of Law 14-310.** — Law 14-310, the “Criminal Code and Miscellaneous Technical Amendments Act of 2002,” was introduced in Council and assigned Bill No. 14-954, which was referred to the Committee on Whole. The Bill was adopted on first and second readings on December 3, 2002, and December 17, 2002, respectively. Signed by the Mayor on January 22, 2003, it was assigned Act No. 14-622 and transmitted to both Houses of Congress for its review. D.C. Law 14-310 became effective on June 12, 2003.

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 10-834.

**Legislative history of Law 16-33.** — For Law 16-33, see notes following § 10-701.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Legislative history of Law 19-168.** — Law 19-168, the “Fiscal Year 2013 Budget Support Act of 2012,” was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.



**Short title.** — Short title of title XI of Law 15-39: Section 1101 of D.C. Law 15-39 provided that title XI of the act may be cited as the Washington Convention Center Marketing Amendment Act of 2003.

Short title of subtitle DD of title I of Law 16-33: Section 1251 of D.C. Law 16-33 provided

that subtitle DD of title I of the act may be cited as the Washington Convention Center Authority Marketing Fund Amendment Act of 2005.

**Effective date.** — For effective date of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

## § 10-1202.08b. Sports and Entertainment Fund.

(a) There is established as a nonlapsing fund the Sports and Entertainment Fund, to be maintained by the Authority.

(b)(1) There shall be deposited into the Sports and Entertainment Fund all monies remaining in the Sports and Entertainment Commission Fund, all revenues of the Authority derived from the District sports and entertainment facilities (except revenues derived from the Walter D. Washington Convention Center), all revenues of the Authority derived from other sports- and entertainment-related activities of the Authority, all interest earned on money in the Fund, and all other monies deposited pursuant to the laws of the District.

(2) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section without regard to fiscal year limitation, subject to the authorization by Congress.

(c) Monies in the Sports and Entertainment Fund shall be used to pay for the operating expenses of the Authority, including expenses incurred through contracts, and for the hosting of sports events, sports teams, recreational events, and entertainment events in the District.

(Sept. 28, 1994, D.C. Law 10-188, § 208b, as added Mar. 3, 2010, D.C. Law 18-111, § 2081(l), 57 DCR 181.)

**Section references.** — This section is referenced in § 10-1202.08c.

**Emergency legislation.** — For temporary (90 day) addition, see § 2081(l) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 2081(l) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

## § 10-1202.08c. Sports Facilities Account.

(a) There is established the Sports Facilities Account (“Account”) as a nonlapsing account within the General Fund of the District of Columbia, which shall be used solely for the maintenance and upkeep of the Robert F. Kennedy Memorial Stadium and the nonmilitary portion of the Armory.

(b)(1) In accordance with § 10-1202.02b(a)(1), the Authority shall transfer from the Sports and Entertainment Fund established by § 10-1202.08b to the Account an amount equal to the budget authority for maintenance and operation of the Robert F. Kennedy Memorial Stadium and the nonmilitary portion of the Armory on October 1 of each year.



(2) Funds deposited into the Account pursuant to this subsection shall be maintained in segregated sub-accounts associated with each revenue source, as the Chief Financial Officer determines to be necessary.

(3) The funds deposited into the Account shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for maintenance and operation of the Robert F. Kennedy Memorial Stadium and the nonmilitary portion of the Armory without regard to fiscal year limitation, subject to authorization by Congress.

(Sept. 28, 1994, D.C. Law 10-188, § 208c, as added Mar. 3, 2010, D.C. Law 18-111, § 2081(l), 57 DCR 181.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2081(l) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see

§ 2081(l) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

## § 10-1202.09. Delegation of Council authority to issue bonds.

The Council delegates to the Authority the power of the Council under § 1-204.90, as amended by section 11508 of the National Capital Revitalization and Self-Government Improvement Act of 1997, approved August 5, 1997 (P.L. 105-33; 111 Stat. 773), to issue revenue bonds, notes, and other obligations to finance, refinance, or assist in the financing or refinancing of any undertakings of the new convention center and the new convention center hotel pursuant to this chapter or to finance, refinance, or assist in the financing or refinancing of the construction of, or capital improvements to, any District sports and entertainment facility.

(Sept. 28, 1994, D.C. Law 10-188, § 209, 41 DCR 5333; Aug. 12, 1998, D.C. Law 12-142, § 2(g), 45 DCR 4826; Sept. 19, 2006, D.C. Law 16-163, § 114(c), 53 DCR 5430; Mar. 3, 2010, D.C. Law 18-111, § 2081(m), 57 DCR 181.)

**Section references.** — This section is referenced in § 10-1202.03.

**Prior Codifications.** — 1981 Ed., § 9-810.

**Effect of amendments.** — D.C. Law 16-163 substituted “New Convention Center and the new convention center hotel” for “New Convention Center”.

D.C. Law 18-111 substituted “new convention center” for “New Convention Center” and substituted “this chapter or to finance, refinance, or assist in the financing or refinancing of the construction of, or capital improvements to, any District sports and entertainment facility” for “this chapter”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 114(c) of New Convention Center Hotel Omnibus Fi-

nancing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

For temporary (90 day) amendment of section, see § 2081(m) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(m) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 12-142.** — For

legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.08a.

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1202.01.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Effective date.** — For effective date of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

## § 10-1202.10. Power of the Authority to issue bonds and notes.

(a) Subject to the limitations in § 10-1202.04, the Authority may at any time, and from time to time, issue bonds and notes or other obligations, by resolution, in 1 or more series to finance the construction of, or capital improvements to, the new convention center or a District sports or entertainment facility or certain costs of the new convention center hotel or a District sports or entertainment facility hotel. The resolution shall name the Chief Financial Officer of the District as the authorized delegate to execute all documents related to the bond financings or refinancings. In addition, the Authority may issue notes to renew notes and bonds to pay notes, including the interest thereon. Whenever expedient, the Authority may refund bonds by the issuance of new bonds.

(b) Bonds of the Authority are obligations payable from revenues of the Authority from whatever source derived, including certain designated taxes, operations of the new convention center, lease payments, earnings on certain funds, and any other funds available to the Authority which may lawfully be used for these purposes.

(c) Regardless of their form or character, bonds of the Authority are negotiable instruments for all purposes of Title 28, subject only to the provisions of the bonds and notes for registration.

(d) No official, employee, or agent of the Authority shall be held personally liable solely because a bond or note is issued.

(e) The issuance and performance of bonds, notes, and other obligations by the Authority as contemplated in this chapter and the adoption of resolutions authorizing such bonds, notes, and other obligations shall be done in compliance with the requirements of this chapter, but shall not be subject to Chapter 5 of Title 2.

(f) The Authority shall have the power to borrow money and to issue revenue bonds regardless of whether or not the interest payable by the Authority incident to such loans or revenue bonds or the income derived by the holders of the evidence of such indebtedness or revenue bonds is, for the purposes of federal taxation, includable in the taxable income of the recipients of these payments or is otherwise not exempt from the imposition of taxation on the recipients.

(g) The Authority shall have the power to contract with the holders of its notes or bonds as to the custody, collection, securing, investment, and payment of any monies of the Authority and of any monies held in trust or otherwise for the payment of notes or bonds.

(Sept. 28, 1994, D.C. Law 10-188, § 210, 41 DCR 5333; Oct. 22, 2009, D.C. Law 18-78, 2(c), 56 DRC 6959; Mar. 3, 2010, D.C. Law 18-111, § 2081(n), 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 72(c), 59 DCR 6190.)

**Section references.** — This section is referenced in § 10-1202.03 and § 10-1202.08a.

**Prior Codifications.** — 1981 Ed., § 9-811.

**Effect of amendments.** — D.C. Law 18-78, in subsec. (a), substituted “new convention center or certain costs of the new convention center hotel” for “new convention center”.

D.C. Law 18-111, in subsec. (a), substituted “the construction of, or capital improvements to, the new convention center or a District sports or entertainment facility” for “the new convention center”.

The 2012 amendment by D.C. Law 19-171 made a technical correction to D.C. Law 18-111 which did not affect this section as codified.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(c) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

For temporary (90 day) amendment of section, see § 2081(n) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(n) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.01.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Legislative history of Law 19-171.** — See note to § 10-1202.01.

## § 10-1202.11. Terms for sale of bonds; additional bond and note provisions.

(a) The Authority may stipulate by resolution the terms for sale of its bonds in accordance with this chapter, including the following:

- (1) The date a note or bond bears;
- (2) The date a bond or note matures, provided that notes shall not mature later than 10 years from the date of original issuance and bonds shall not mature later than 34 years from the date of original issuance;
- (3) Whether bonds are issued as serial bonds, as term bonds, or a combination of the two;
- (4) The denomination;
- (5) Any interest rate or rates, or variable rate or rates changing from time to time, or premium or discount applicable;
- (6) The registration privileges;
- (7) The medium and method for payment; and
- (8) The terms of redemption.

(b) The Authority may sell its bonds at public or private sale and may determine the price for sale.

(c) A resolution authorizing the sale of bonds may contain any of the following provisions, in which case these provisions shall be made part of the contract with holders of the bonds:

(1) The custody, security, expenditure, or application of proceeds of the sale of bonds or notes of the Authority (“proceeds”), a pledge of the proceeds to secure payment, and the rank or priority of the pledge, subject to preexisting agreements with holders of the bonds;

(2) A pledge of Authority revenues to secure payment and the rank or priority of the pledge, subject to preexisting agreements with holders of the bonds;

(3) A pledge of assets of the Authority, including mortgages and obligations securing mortgages, to secure payment, and the rank or priority of the pledge, subject to preexisting agreements with holders of the bonds;



- (4) The proposed use of gross income from any mortgages owned by the Authority and payment of principal of mortgages owned by the Authority;
  - (5) The proposed use of reserves or sinking funds;
  - (6) The proposed use of proceeds from the sale of bonds or notes and a pledge of proceeds to secure payment;
  - (7) Any limitations on the issuance of bonds or notes, including terms of issuance and security, and the refunding of outstanding or other bonds;
  - (8) Procedures for amendment or abrogation of a contract with holders of the bonds, the amount of bonds or notes, the holders of which must consent to the amendment, and the manner in which consent may be given;
  - (9) Any vesting in a trustee property, power and duties, which may include the power and duties of a trustee appointed by holders of the bonds;
  - (10) Limitations or abrogations of the right of holders of the bonds to appoint a trustee;
  - (11) A defining of the nature of default in the obligations of the Authority to the holders of the bonds and providing the rights and remedies of holders of the bonds in the event of default, including the right to the appointment of a receiver, in accordance with the general laws of the District and this chapter; and
  - (12) Any other provisions of like or different character which affect the security of holders of the bonds.
- (d) A pledge of the Authority is binding from the time it is made. Any funds, or property pledged, are subject to the lien of a pledge without physical delivery. The lien of a pledge is binding as against parties having any tort, contract, or other claim against the Authority regardless of notice. Neither the resolution nor any other instrument creating a pledge need be recorded.
- (e) The signature of any officer of the Authority which appears on a bond remains valid if that person ceases to hold office.
- (f) The Authority may secure bonds by a trust indenture between the Authority and a corporate trustee which has trust company powers within the District.
- (g) A trust indenture of the Authority may contain provisions for protecting and enforcing the rights and remedies of holders of the bonds in accordance with the provisions of the resolution authorizing the sale of bonds.
- (h) Subject to preexisting agreements with the holders of the bonds or notes, the Authority may purchase its own bonds which may then be cancelled. The price the Authority pays in purchasing its own bonds cannot exceed the following limits:
- (1) If the bonds are redeemable, the price cannot exceed the redemption price then applicable plus accrued interest to the next interest payment; or
  - (2) If the bonds are not redeemable, the price cannot exceed the redemption price applicable on the first date after the purchase upon which the bonds or notes become subject to redemption plus accrued interest to that date.
- (i) The Authority may establish special or reserve funds in furtherance of its authority under this chapter. Notwithstanding subsections (a) and (b) of this section, § 10-1202.13, and other applicable District law, and subject to agreements with holders of the bonds, the Authority shall manage its own

funds, and may invest funds not required for disbursement in a manner the Authority determines to be prudent.

(j) The bonds of the Authority are legal instruments in which public officers and public bodies of the District, insurance companies, insurance company associations, and other persons carrying on an insurance business, banks, bankers, banking institutions including savings and loan associations, building and loan associations, trust companies, savings banks, savings associations, investment companies, and other persons carrying on a banking business, administrators, guardians, executors, trustees, and other fiduciaries, and other persons authorized to invest in bonds or in other obligations of the District, may legally invest funds, including capital, in their control. The bonds are also securities which legally may be deposited with and received by public officers and public bodies of the District or any agency of the District for any purpose for which the deposit of bonds or other obligations of the District is authorized by law.

(k) Obligations issued under the provisions of this chapter do not constitute an obligation of the District, but are payable solely from the revenues or assets of the Authority. Each obligation issued under this chapter must contain on its face a statement that the Authority is not obligated to pay principal or interest except from the revenues or assets pledged and that neither the faith and credit nor the taxing power of the District is pledged to the payment of the principal or interest on an obligation.

(l) All property, assets, and income of the Authority shall be exempt from District taxation and from any special assessments imposed by the District.

(m) Bonds issued by the Authority, their transfer, and the interest on the bonds shall be exempt from District taxation, except for estate, inheritance, and gift taxation.

(Sept. 28, 1994, D.C. Law 10-188, § 211, 41 DCR 5333; Aug. 12, 1998, D.C. Law 12-142, § 2(h), 45 DCR 4826; Mar. 3, 2010, D.C. Law 18-111, § 2081(o), 57 DCR 181.)

**Section references.** — This section is referenced in § 10-1202.14.

**Prior Codifications.** — 1981 Ed., § 9-812.

**Effect of amendments.** — D.C. Law 18-111 rewrote subsecs. (l) and (m).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2081(o) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(o) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.08a.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Effective date.** — For effective date of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

## § 10-1202.12. District pledges.

The District pledges to the Authority that the District will not limit or alter rights vested in the Authority to fulfill agreements made with holders of the

bonds, or in any way impair the rights and remedies of the holders of the bonds until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the bonds are fully met and discharged. The Authority is authorized to include this pledge of the District in any agreement with the holders of the bonds.

(Sept. 28, 1994, D.C. Law 10-188, § 212, 41 DCR 5333.)

**Prior Codifications.** — 1981 Ed., § 9-813. torical and Statutory Notes following § 10-1201.01.  
**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see His-

### § 10-1202.13. Transfer of excess cash.

(a) If, at the end of a fiscal year, the balance of cash and investments of the Authority in the Convention Center Fund exceeds the balance of current liabilities, reserves, and any amounts that the Authority expects to apply to purchase or redeem its outstanding indebtedness during the upcoming fiscal year, the excess shall be transferred, in cash, to the General Fund of the District.

(b) Except as provided in subsection (c) of this section, for the purposes of this section, the term “reserves” means:

(1) In the case of debt service reserves, a reserve of cash and investments equal to not more than the maximum annual debt service on outstanding bonds and notes issued by the Authority;

(2) In the case of an operating reserve, a reserve of cash and investments equal to not more than 1.5 times the annual operating expenditures; and

(3) In the case of a capital replacement reserve, a reserve of cash and investments equal to not more than 2.5% of the total capital cost for the new convention center, adjusted for inflation.

(c) Subject to Council approval by resolution, the Authority may increase the level of the reserves described in subsection (b) of this section or establish, fund, and maintain any other reserve or reserves if the Authority determines that such action is necessary to satisfy the bond-rating agencies or otherwise maintain the financial condition of the Authority.

(Sept. 28, 1994, D.C. Law 10-188, § 213, 41 DCR 5333; Aug. 12, 1998, D.C. Law 12-142, § 2(i), 45 DCR 4826; Mar. 3, 2010, D.C. Law 18-111, § 2081(p), 57 DCR 181.)

**Section references.** — This section is referenced in § 10-1202.04, § 10-1202.08, and § 10-1202.11.

**Prior Codifications.** — 1981 Ed., § 9-814.

**Effect of amendments.** — D.C. Law 18-111, in subsec. (a), substituted “Authority in the Convention Center Fund exceeds” for “Authority exceeds”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2081(p) of Fiscal Year 2010 Budget Support Second Emer-

gency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(p) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.



**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.08a.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Effective date.** — For effective date of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

**Editor's notes.** — Washington Convention

Center Authority Dedicated Tax Revenue Bond Resolution of 1998: Pursuant to Resolution 12-591, effective July 7, 1998, the Council approved the Washington Convention Center Authority's proposal for the issuance of Dedicated Tax Revenue Bonds to finance a New Convention Center and to authorize an increase in the capital replacement reserve and the operating reserve.

## § 10-1202.14. District of Columbia repayment option.

The District of Columbia retains the right to direct the Authority to purchase its own bonds and notes subject to the terms and conditions of § 10-1202.11(h), for the purpose of dissolving or altering the Authority after such bonds and notes are cancelled or defeased.

(Sept. 28, 1994, D.C. Law 10-188, § 214, 41 DCR 5333.)

**Prior Codifications.** — 1981 Ed., § 9-815.

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see His-

torical and Statutory Notes following § 10-1201.01.

## § 10-1202.15. Location of new convention center.

(a) The new convention center should be located within an area bounded by 7th Street, N.W., N Street, N.W., 9th Street, N.W., and Mount Vernon Square, N.W.

(b) The Mayor may evaluate and consider other alternative sites in which to locate the new convention center. The Mayor should specifically evaluate and consider 2 alternative sites: the site bounded by New York Avenue, N.E., 1st Street, N.E., M Street, N.E., and the rail line to Florida Avenue; and the site located at the Anacostia Metro.

(c) If the Mayor determines that the new convention center should be located at a site other than the site described in subsection (a) of this section, then the Mayor may designate the alternative site as the site for the new convention center with the advice and consent of the Council by resolution.

(Sept. 28, 1994, D.C. Law 10-188, § 215, 41 DCR 5333.)

**Section references.** — This section is referenced in § 10-1202.01.

**Prior Codifications.** — 1981 Ed., § 9-816.

**Legislative history of Law 10-188.** — For

legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.

## § 10-1202.15a. Redevelopment of existing convention center site.

Any proposed exclusive right agreement to redevelop the existing convention center site, which is legally described as Square 374 and Lot 848 and excluding Lot 829, shall be submitted with a proposed resolution by the Mayor to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or

disapprove the proposed resolution within the 30-day period of review, the proposed resolution and exclusive right agreement shall be deemed approved.

(Sept. 28, 1994, D.C. Law 10-188, § 215a, as added Apr. 4, 2003, D.C. Law 14-286, § 2, 50 DCR 944.)

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 2 of Council Review of Existing Convention Center Site Redevelopment Temporary Amendment Act of 2002 (D.C. Law 14-224, March 25, 2003, law notification 50 DCR 2737).

**Emergency legislation.** — For temporary (90 day) addition of § 10-1202.15a, see § 2 of Council Review of Existing Convention Center Site Redevelopment Emergency Amendment Act of 2002 (D.C. Act 14-425, July 17, 2002, 49 DCR 7629).

For temporary (90 day) addition of § 10-1202.15a, see § 2 of Council Review of Existing Convention Center Site Redevelopment Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-539, December 2, 2002, 49 DCR 11655).

**Legislative history of Law 14-286.** — Law 14-286, the “Council Review of the Exclusive Right Agreement for the Redevelopment of the Existing Convention Center Site Amendment Act of 2002”, was introduced in Council and

assigned Bill No. 14-814, which was referred to Economic Development. The Bill was adopted on first and second readings on December 3, 2002, and December 17, 2002, respectively. Signed by the Mayor on January 22, 2003, it was assigned Act No. 14-620 and transmitted to both Houses of Congress for its review. D.C. Law 14-286 became effective on April 4, 2003.

**Delegation of Authority.** — Delegation of Authority to Execute Exclusive Rights Agreements, Land Disposition Agreements, Deeds and Associated Documents with Respect to Certain Real Estate, see Mayor’s Order 2005-28, February 2, 2005 (52 DCR 2848).

**Resolutions.** — Resolution 16-165, the “Revised Old Convention Center Site Disposition Approval Resolution of 2005”, was approved effective June 7, 2005.

Resolution 16-166, the “Revised Old Convention Center Site Exclusive Right Agreement Approval Resolution of 2005”, was approved effective June 7, 2005.

## § 10-1202.16. Merit personnel system inapplicable.

Chapter 6 of Title 1 shall not apply to employees of the Authority; except, that:

(1) Subchapters V and XVII of Chapter 6 of Title 1 shall apply.

(2) Notwithstanding the provisions of Unit A of Chapter 14 of Title 2, each qualified District resident applicant shall receive an additional 10-point preference over a qualified non-District resident applicant for all positions within the Authority unless the applicant declines the preference. This 10-point preference shall be in addition to, and not instead of, qualifications established for the position. All persons hired after February 6, 2008, shall submit 8 proofs of residency upon employment in a manner determined by the Board of Directors. An applicant claiming the hiring preference under this section shall agree in writing to maintain bona fide District residency for a period of 7 consecutive years from the effective date of hire and shall provide proof of such residency annually to the director of personnel for the Authority for the first 7 years of employment. Failure to maintain District residency for the consecutive 7-year period shall result in forfeiture of employment. The Authority shall submit to the Mayor and Council annual reports detailing the names of all new employees and their pay schedules, titles, and place of residence.

(Sept. 28, 1994, D.C. Law 10-188, § 216, 41 DCR 5333; Sept. 23, 1997, D.C. Law 12-22, § 2, 44 DCR 4168; Feb. 6, 2008, D.C. Law 17-108, § 210(b), 54 DCR 10993; Mar. 25, 2009, D.C. Law 17-353, § 223(e)(2), 56 DCR 1117.)

**Prior Codifications.** — 1981 Ed., § 9-817.

**Effect of amendments.** — D.C. Law 17-108 rewrote the section which had read as follows: “Chapter 6 of Title 1 shall not apply to employees of the Authority, except that subchapters V and XVII of Chapter 6 of Title 1, shall apply.”

D.C. Law 17-353, in the lead-in language, substituted “except” for “provided”.

**Emergency legislation.** — For temporary amendment of section, see § 2 of the Washington Convention Center Authority Collective Bargaining Emergency Amendment Act of 1997 (D.C. Act 12-78, June 4, 1997, 44 DCR 3351).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 12-22.** — Law 12-22, the “Washington Convention Center Authority Collective Bargaining Amendment Act of 1997,” was introduced in Council and assigned Bill No. 12-173. The Bill was adopted on first and second readings on May 6, 1997, and June 3, 1997, respectively. Signed by the Mayor on June 18, 1997, it was assigned Act No. 12-99 and transmitted to both Houses of Congress for its review. D.C. Law 12-22 became effective on September 23, 1997.

**Legislative history of Law 17-108.** — For Law 17-108, see notes following § 10-1202.07.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 10-1016.

## § 10-1202.17. Transition provisions; establishment of Interim Board of Directors. [Repealed].

Repealed.

(Sept. 28, 1994, D.C. Law 10-188, § 213, 41 DCR 5333; Aug. 12, 1998, D.C. Law 12-142, § 2(j), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 9-818.

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.08a.

**Effective date.** — For effective date of D.C.

Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

**Editor’s notes.** — Pub. L. 105-227, § 2, Aug. 12, 1998, 112 Stat. 1515, provided: “Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act, the Washington Convention Center Authority Financing Amendment Act of 1998 (D.C. Act 12-402) shall take effect on the date of the enactment of this Act.”

## § 10-1202.18. Establishment of Advisory Committee.

(a) There is established a Washington Convention Center Advisory Committee (“Committee”).

(b) The Committee shall consist of the following 19 members:

(1) The Deputy Mayor for Planning and Economic Development or the Deputy Mayor’s designee;

(2) The City Administrator or the City Administrator’s designee;

(3) The Chairman of the Council or the Chairman’s designee;

(4) The Chairperson of the Council’s committee with oversight over the Authority or the Chairperson’s designee;

(5) The Councilmember from Ward 2 or the Councilmember’s designee;

(6) Two members from the Shaw community appointed by the Mayor;

(7) Two members appointed by the Chairperson of the Council’s committee with oversight over the Authority;

(8) Two members from the community chosen by the Councilmember from Ward 2;

(9) One member chosen by the Advisory Neighborhood Commissioner for ANC2F;



- (10) One member chosen by the Advisory Neighborhood Commissioner for ANC2C;
  - (11) The Ward 2 Metropolitan Police Department representative;
  - (12) One member chosen by the Unite Here Mid-Atlantic Joint Board Local 25 (Hotel & Restaurant Employees);
  - (13) One member chosen by the local chapter of the American Institute of Architects;
  - (14) One member chosen by the local chapter of the American Planning Association;
  - (15) One member chosen by the Hotel Association of Washington D.C.; and
  - (16) The Chairperson of the Committee, who shall be appointed by the Mayor without limitations based upon ward residency.
- (c) Members of the Committee who are not ex officio members shall have expertise in economic development, public safety, law, transportation, affirmative action, or local community issues.
- (d) All members of the Committee shall be District residents.
- (e) The Chairperson of the Commission shall be designated by the Mayor in consultation with the chairperson of the Council's committee with oversight over the Washington Convention Center Authority.
- (f) Members shall serve without compensation.
- (g) Prior to adoption of a request for proposals or contract modifications for economic development projects, streetscape or pedestrian movement projects, and transportation or parking projects the Authority shall consult and receive comments from the Committee.
- (h) The Committee shall advise the Authority with respect to the following:
- (1) The needs of the community, including providing retail uses that are accessible to the community, which serve the needs of both the community and visitors to the Convention Center, and adequate security in and around the Convention Center;
  - (2) Parking issues, including parking for persons using or employed at the Convention Center and the prevention of parking in the surrounding neighborhoods by non-residents of those neighborhoods;
  - (3) Transportation issues, including proposals for directing traffic to and from the Convention Center away from the surrounding residential streets, providing a method of truck staging to minimize any adverse impact on the surrounding neighborhoods, restricting the parking of trucks, trailers, and buses to the Convention Center or other areas outside of the area surrounding the Convention Center, and providing adequate pull-off areas for taxicabs, buses, and shuttles;
  - (4) Economic development spin-off opportunities for surrounding neighborhoods;
  - (5) Participation by local, small, and disadvantaged business enterprises in the operation of the Convention Center;
  - (6) The development of environmental guidelines, including the mitigation of adverse noise and air quality impacts; and
  - (7) Other issues directly related to the operation of the Convention Center which are likely to have an impact on the community.

(h-1) The Committee shall serve as the liaison to the community on matters pertaining to the new convention center hotel and shall provide updates on the new convention center hotel at the regularly scheduled Committee meetings.

(i) The Committee shall dissolve one year after a Certificate of Occupancy is issued for the new convention center hotel; provided, that before such time Chairperson of the Committee may submit a request for renewal.

(Sept. 28, 1994, D.C. Law 10-188, § 218, 41 DCR 5333; Dec. 7, 2004, D.C. Law 15-213, § 2, 51 DCR 8822; July 18, 2008, D.C. Law 17-181, § 2, 55 DCR 6094; Mar. 25, 2009, D.C. Law 17-353, § 237, 56 DCR 1117; Oct. 22, 2009, D.C. Law 18-78, § 2(d), 56 DCR 6959; Mar. 3, 2010, D.C. Law 18-111, § 2081(q), 57 DCR 181.)

**Prior Codifications.** — 1981 Ed., § 9-819.

**Effect of amendments.** — D.C. Law 15-213 rewrote the section .

D.C. Law 17-181 rewrote subsec. (b); in subsec. (e), substituted "Council's committee with oversight over the Washington Convention Center Authority" for "Committee on Economic Development"; added subsec. (h-1); and, in subsec. (i), substituted "dissolve one year after a Certificate of Occupancy is issued for the Headquarters Hotel," for "dissolve on December 31, 2010;".

D.C. Law 17-353 validated a previously made technical correction in subsec. (b)(4).

D.C. Law 18-78, in subsec. (h-1), substituted "new convention center hotel" for "Walter E. Washington Convention Center Headquarters Hotel ('Headquarters Hotel')"; and " new convention center hotel" for "Headquarters Hotel"; and, in subsec. (i), substituted "new convention center hotel" for "Headquarters Hotel".

D.C. Law 18-111, in subsec. (b)(2), substituted "City Administrator or the City Administrator's" for "Deputy Mayor for Operations (or successor officer) or the Deputy Mayor's"; and, in subsecs. (b)(4) and (7), substituted "Authority" for "Washington Convention Center Authority".

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Washington Convention Center Advisory Committee Continuity Temporary Amendment Act of 2003 (D.C. Law 15-21, June 21, 2003, law notification 50 DCR 5465).

For temporary (225 day) amendment of section, see § 2 of Washington Convention Center Advisory Committee Continuity Temporary Act of 2004 (D.C. Law 15-122, March 30, 2004, law notification 51 DCR 3809).

For temporary (225 day) amendment of section, see § 2 of Washington Convention Center Authority Advisory Committee Continuity Third Temporary Amendment Act of 2004 (D.C. Law 15-209, December 7, 2004, law notification 52 DCR 453).

For temporary (225 day) amendment of section, see § 2 of Washington Convention Center

Advisory Committee Continuity Temporary Amendment Act of 2005 (D.C. Law 16-3, May 14, 2005, law notification 52 DCR 5426).

For temporary (225 day) amendment of section, see § 2 of Washington Convention Center Authority Advisory Committee Continuity Second Temporary Amendment Act of 2006 (D.C. Law 16-74, April 4, 2006, law notification 53 DCR 3333).

For temporary (225 day) amendment of section, see § 2 of Washington Convention Center Advisory Committee Temporary Amendment Act of 2006 (D.C. Law 16-254, March 8, 2007, law notification 54 DCR 3039).

For temporary (225 day) amendment of section, see § 2 of Washington Convention Center Advisory Committee Temporary Amendment Act of 2007 (D.C. Law 17-74, January 23, 2008, law notification 55 DCR 1454).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of Washington Convention Center Advisory Committee Continuity Emergency Amendment Act of 2003 (D.C. Act 15-46, March 24, 2003, 50 DCR 2815).

For temporary (90 day) amendment of section, see § 2 of Washington Convention Center Authority Advisory Committee Continuity Second Emergency Act of 2003 (D.C. Act 15-288, January 6, 2004, 51 DCR 873).

For temporary (90 day) amendment of section, see § 2 of Washington Convention Center Authority Advisory Committee Continuity Third Emergency Amendment Act of 2004 (D.C. Act 15-479, July 19, 2004, 51 DCR 7617).

For temporary (90 day) amendment of section, see § 2 of Washington Convention Center Authority Advisory Committee Continuity Emergency Amendment Act of 2005 (D.C. Act 16-29, February 17, 2005, 52 DCR 2991).

For temporary (90 day) amendment of section, see § 2 of Washington Convention Center Authority Advisory Committee Continuity Second Emergency Act of 2005 (D.C. Act 16-242, December 22, 2005, 53 DCR 264).

For temporary (90 day) amendment of section, see § 2 of Washington Convention Center



Authority Advisory Committee Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-329, March 23, 2006, 53 DCR 2587).

For temporary (90 day) amendment of section, see § 2 of Washington Convention Center Advisory Committee Emergency Amendment Act of 2006 (D.C. Act 16-569, December 19, 2006, 54 DCR 5).

For temporary (90 day) amendment of section, see § 2 of Washington Convention Center Advisory Committee Emergency Amendment Act of 2007 (D.C. Act 17-150, October 18, 2007, 54 DCR 10896).

For temporary (90 day) amendment of section, see § 2(d) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

For temporary (90 day) amendment of section, see § 2081(q) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(q) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1201.01.

**Legislative history of Law 15-213.** — Law 15-213, the “Washington Convention Center Authority Advisory Committee Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-726, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on June 29, 2004, and July 13, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-504 and transmitted to both Houses of Congress for its review. D.C. Law 15-213 became effective on December 7, 2004.

**Legislative history of Law 17-181.** — Law 17-181, the “Washington Convention Center Authority Advisory Committee Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-80 which was referred to the Committee on Economic Development Finance and Revenue. The Bill was adopted on first and second readings on April 1, 2008, and May 6, 2008, respectively. Signed by the Mayor on May 20, 2008, it was assigned Act No. 17-374 and transmitted to both Houses of Congress for its review. D.C. Law 17-181 became effective on July 18, 2008.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 10-1016.

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.01.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

## PART C.

### LAND LEASE AUTHORITY FOR HOTEL.

## § 10-1202.21. Findings.

The Council finds that in order for the development of the new convention center hotel to proceed, it is necessary for the District and the Authority to lease to Marriott International, Inc., the developer of the new convention center hotel, or its designee, 2 parcels of land that are part of the site of the new convention center hotel.

(Sept. 28, 1994, D.C. Law 10-188, § 221, formerly § 701, as added Sept. 19, 2006, D.C. Law 16-163, § 201, 53 DCR 5430; renumbered Mar. 25, 2009, D.C. Law 17-353, § 122(d), 56 DCR 1117.)

**Effect of amendments.** — D.C. Law 17-353, in the credit, renumbered the section designation from § 701 to § 221.

**Emergency legislation.** — For temporary (90 day) addition, see § 201 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

**Legislative history of Law 16-163.** — Law

16-163, the “New Convention Center Hotel Omnibus Financing and Development Act of 2006”, was introduced in Council and assigned Bill No. 16-630 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on May 2, 2006, and June 6, 2006, respectively. Signed by the Mayor on June 27, 2006, it was assigned Act No. 16-409 and transmitted to both Houses



of Congress for its review. D.C. Law 16-163 became effective on September 19, 2006.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 10-1016.

## § 10-1202.22. Lease authority for the Mayor.

(a) Notwithstanding any other provision of law, the Mayor may grant a lease to Marriott International, Inc., or its designee, of the real property described as a portion of Lot 26 (formerly known as Lots 18, 21, 801 through 806, 830 through 839, 843, and 845), Square 370, including all public alleys to be closed within these lots, on the following terms and conditions:

(1) The lease term shall be 99 years, with lease payments beginning on the 3rd anniversary of operations; provided, that the commencement of the lease payments may be extended as mutually agreed by the parties.

(2) Annual lease payments shall be in an amount to be negotiated by the parties; provided, that the present value of the lease payments during the lease term discounted at 6% shall equal at least \$70.2 million.

(3) Repealed.

(4) Lease payments shall be payable from cash available after the developer's debt service payments on debt financing as permitted under the Hotel Development and Funding Agreement and lease.

(5) A right of first refusal and an option to acquire the District's fee interest in the real property during the lease term.

(6) The lease may be subordinated to a leasehold mortgage securing development financing for the developer and may permit the issuance of a new lease upon foreclosure on the same terms and conditions as the prior lease.

(b) Notwithstanding any other provision of law, the Mayor may assign the annual lease payments required by subsection (a) of this section to the Authority.

(Sept. 28, 1994, D.C. Law 10-188, § 222, formerly § 702, as added Sept. 19, 2006, D.C. Law 16-163, § 201, 53 DCR 5430; Apr. 15, 2008, D.C. Law 17-144, § 3(c), 55 DCR 2527; Mar. 21, 2009, D.C. Law 17-339, § 2(a), 56 DCR 947; renumbered Mar. 25, 2009, D.C. Law 17-353, § 122(e), 56 DCR 1117; Oct. 22, 2009, D.C. Law 18-78, § 2(e), 56 DCR 6959.)

**Section references.** — This section is referenced in § 10-1202.04 and § 10-1202.24.

**Effect of amendments.** — D.C. Law 17-144 rewrote the section.

D.C. Law 17-339 added par. (6).

D.C. Law 17-353, in the credit, renumbered the section designation from § 702 to § 222.

D.C. Law 18-78 designated the existing text as subsec. (a); in the lead-in text of subsec. (a), substituted "a portion of Lot 26 (formerly known as Lots 18, 21, 801 through 806, 830 through 839, 843, and 845), Square 370" for "Lots 18, 21, 801 through 806, 830 through 839, 843, and 845 in Square 370"; in subsec. (a)(1), substituted "on the 3rd anniversary of operations" for "in the 4th year of operations"; in subsec. (a)(4), substituted "debt financing as

permitted under the Hotel Development and Funding Agreement and lease" for "a loan for the new convention center hotel"; and added subsec. (b).

**Temporary Amendment of Section.** — Section 2(a) of D.C. Law 17-228 added par. (6) to read as follows: "(6) The lease may be subordinated to a leasehold mortgage securing development financing for the developer and may permit the issuance of a new lease upon foreclosure on the same terms and conditions as the prior lease."

Section 5(b) of D.C. Law 17-228 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 201 of New Convention

Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

For temporary (90 day) amendment, see § 2(a) of New Convention Center Hotel Technical Amendments Emergency Amendment Act of 2008 (D.C. Act 17-412, June 18, 2008, 55 DCR 7026).

For temporary (90 day) amendment of section, see § 2(a) of New Convention Center Hotel Combined Technical Amendments Emergency Amendment Act of 2008 (D.C. Act 17-604, December 16, 2008, 56 DCR 17).

For temporary (90 day) amendment of section, see § 2(a) of New Convention Center Hotel Technical Amendments Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-28, March 16, 2009, 56 DCR 2319).

For temporary (90 day) amendment of section, see § 2(e) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1202.21

**Legislative history of Law 17-144.** — For Law 17-144, see notes following § 10-1202.01.

**Legislative history of Law 17-339.** — Law 17-339, the “New Convention Center Hotel Technical Amendments Act of 2008”, was introduced in Council and assigned Bill No. 17-774 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 6, 2009, it was assigned Act No. 17-657 and transmitted to both Houses of Congress for its review. D.C. Law 17-339 became effective on March 21, 2009.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 10-1016.

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.01.

## § 10-1202.23. Lease authority for the Authority.

Notwithstanding any other provision of law, the Authority may lease to Marriott International, Inc., or its designee, the real property described as a portion of Lot 26 (formerly known as Lots 22 and 24), Square 370, on the following terms and conditions:

(1) The lease term shall be 99 years, with lease payments beginning on the earlier of:

(A) The commencement of the 4th year of operation of the New Convention Center Hotel; or

(B) October 1, 2014; provided, that this date may be extended as mutually agreed by the parties.

(2) Annual lease payments shall be in an amount to be negotiated by the parties; provided, that the present value of the lease payments during the lease term discounted at 6% shall equal at least \$31.5 million.

(3) A right of first refusal and an option to acquire the Authority’s fee interest in the real property during the lease term.

(4) The Authority may convey to lessee its fee simple interest to the improvements located on the lots for lessee to own during the lease term.

(5) Lease payments shall be payable from cash available after payment of the developer’s debt service on a loan for the new convention center hotel.

(6) The lease may be subordinated to a leasehold mortgage securing development financing for the developer and may permit the issuance of a new lease upon foreclosure on the same terms and conditions as the prior lease.

(Sept. 28, 1994, D.C. Law 10-188, § 223, formerly § 703, as added Sept. 19, 2006, D.C. Law 16-163, § 201, 53 DCR 5430; Apr. 15, 2008, D.C. Law 17-144, § 3(d), 55 DCR 2527; Mar. 21, 2009, D.C. Law 17-339, § 2(b), 56 DCR 947; renumbered Mar. 25, 2009, D.C. Law 17-353, § 122(f), 56 DCR 1117; Oct. 22, 2009, D.C. Law 18-78, § 2(f), 56 DCR 6959.)



**Section references.** — This section is referenced in § 10-1202.24.

**Effect of amendments.** — D.C. Law 17-144 rewrote the section.

D.C. Law 17-339 added pars. (5) and (6).

D.C. Law 17-353, in the credit, renumbered the section designation from § 703 to § 223.

D.C. Law 18-78 substituted “a portion of Lot 26 (formerly known as Lots 22 and 24), Square 370” for “Lots 22 and 24, Square 370”.

**Temporary Amendment of Section.** — Section 2(b) of D.C. Law 17-228 added pars. (5) and (6) to read as follows:

“(5) Lease payments shall be payable from cash available after payment of the developer’s debt service on a loan for the New Convention Center Hotel.

“(6) The lease may be subordinated to a leasehold mortgage securing development financing for the developer and may permit the issuance of a new lease upon foreclosure on the same terms and conditions as the prior lease.”.

Section 5(b) of D.C. Law 17-228 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) additions, see § 201 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

For temporary (90 day) amendment of section, see § 2(b) of New Convention Center

Hotel Technical Amendments Emergency Amendment Act of 2008 (D.C. Act 17-412, June 18, 2008, 55 DCR 7026).

For temporary (90 day) amendment of section, see § 2(b) of New Convention Center Hotel Combined Technical Amendments Emergency Amendment Act of 2008 (D.C. Act 17-604, December 16, 2008, 56 DCR 17).

For temporary (90 day) amendment of section, see § 2(b) of New Convention Center Hotel Technical Amendments Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-28, March 16, 2009, 56 DCR 2319).

For temporary (90 day) addition, see § 2(c) of New Convention Center Hotel Technical Amendments Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-28, March 16, 2009, 56 DCR 2319).

For temporary (90 day) amendment of section, see § 2(f) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1202.21

**Legislative history of Law 17-144.** — For Law 17-144, see notes following § 10-1202.01.

**Legislative history of Law 17-339.** — For Law 17-339, see notes following § 10-1202.22.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 10-1016.

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.01.

## § 10-1202.23a. Use of new convention center vault space.

(a) Notwithstanding any other provision of law, with respect to the airspace located below the portion of N Street, N.W., between 7th and 9th Streets, N.W., the portion of 9th Street, N.W., between and including N Street, N.W., and Massachusetts Avenue, N.W., and the adjoining sidewalks abutting the new convention center in which the Authority was permitted to construct, and has constructed, a portion of the new convention center, including loading docks, access ramps, and associated driveways, the Authority may enter into one or more agreements with Marriott International, Inc., or its designee, to permit Marriott International, Inc., or its designee to:

(1) Use the new convention center’s access ramp and associated driveways and entrances thereto for such purposes as may be authorized by the Authority;

(2) Construct, operate, and maintain within the airspace an access way from the new convention center’s access ramp and associated driveways for the purpose of entering and exiting from the proposed loading docks of the new convention center hotel and such other purposes as may be authorized by the Authority; and

(3) Construct, operate, and maintain within such airspace a pedestrian connector between the new convention center hotel and the new convention center and for such other purposes as may be authorized by the Authority.

(b) The agreement regarding the pedestrian connector authorized under



subsection (a) of this section may provide that Marriott International, Inc., or its designee, shall be responsible for the operation and maintenance of the pedestrian connector and, if so provided, that the Authority shall pay 50% of the costs to operate and maintain the pedestrian connector.

(Sept. 28, 1994, Law 10-188, § 703a, as added Mar. 21, 2009, D.C. Law 17-339, § 2(c), 56 DCR 947.)

**Temporary Addition of Section.** — Section 2(a) of D.C. Law 17-294 added a section to read as follows:

“Sec. 703a. Use of new convention center vault space.

“(a) Notwithstanding any other provision of law, with respect to the airspace located below the portion of N Street, N.W., between 7th and 9th Streets, N.W., and 9th Street, N.W., between and including N Street, N.W., and Massachusetts Avenue, N.W., and the adjoining sidewalks abutting the new convention center in which the Authority was permitted to construct, and has constructed, a portion of the new convention center, including loading docks, access ramps, and associated driveways, the Authority may enter into one or more agreements with Marriott International, Inc., or its designee, to permit Marriott International, Inc., or its designee to:

“(1) Use the new convention center’s access ramp and associated driveways;

“(2) Construct and maintain within such airspace access ways from the new convention center’s access ramp and associated driveways for the purpose of entering and exiting from the proposed loading docks of the new convention center hotel and such other purposes as may be authorized by the Authority; and

“(3) Construct, operate, and maintain within such airspace a pedestrian connector between the new convention center hotel and the new convention center.

“(b) The agreement regarding the pedestrian connector authorized under subsection (a) of this section may provide that Marriott International, Inc., or its designee, shall be responsible for the operation and maintenance of the pedestrian connector and, if so provided, that the Authority shall pay 50% of the costs to operate and maintain the pedestrian connector.”.

Section 4(b) of D.C. Law 17-294 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(a) of New Convention Center Hotel Emergency Amendment Act of 2008 (D.C. Act 17-556, October 27, 2008, 55 DCR 12004).

For temporary (90 day) addition, see § 2(c) of New Convention Center Hotel Combined Technical Amendments Emergency Amendment Act of 2008 (D.C. Act 17-604, December 16, 2008, 56 DCR 17).

**Legislative history of Law 17-339.** — For Law 17-339, see notes following § 10-1202.22.

## § 10-1202.23b. Grant of easements over District property.

(a) Notwithstanding any other provision of law, with respect to the lots in Squares 400, 402, and 424 titled in the name of the District in which the Authority was permitted to construct, and has constructed, a portion of the new convention center, including loading docks, access ramps, and associated driveways and entrances thereto, the Authority may enter into one or more agreements with Marriott International, Inc., or its designee, to grant, as an appurtenance to the new convention center hotel site (including any public or private alleys closed or to be closed in connection with the development of the new convention center hotel), the following easements and uses:

(1) An ingress and egress easement over and across the new convention center’s access ramp and associated driveways and entrances thereto for such purposes as may be authorized by the Authority; and

(2) A temporary construction easement over the new convention center’s access ramp and associated driveways and entrances thereto for the construction of a pedestrian connector between the new convention center hotel and the new convention center, together with an easement for ingress and egress over

and through the pedestrian connector to and from the new convention center hotel and the new convention center and for such other purposes as may be authorized by the Authority.

(Sept. 28, 1994, Law 10-188, § 703b, as added Mar. 21, 2009, D.C. Law 17-339, § 2(c), 56 DCR 947.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2(c) of New Convention Center Hotel Combined Technical Amendments Emergency Amendment Act of 2008 (D.C. Act 17-604, December 16, 2008, 56 DCR 17).

**Legislative history of Law 17-339.** — For Law 17-339, see notes following § 10-1202.22.

**Editor's notes.** — As enacted, this section was designated as subsection (a), but had no subsection (b).

## § 10-1202.24. Authority for vault space permit or airspace lease.

Notwithstanding any other provision of law, the Mayor may issue a permit or airspace lease to Marriott International, Inc., or its designee, for vault space or airspace adjacent to the real property subject to the leases authorized by §§ 10-1202.22 and 10-1202.23, having a term not to exceed 99 years, or such longer period as may be otherwise determined by the Mayor, and at no additional rent or fee, except as may be otherwise determined by the Mayor, but otherwise in accordance with subchapters I and II of Chapter 11 of this title [§ 10-1101.01 et seq. and § 10-1121.01 et seq.], as applicable. The recording of any airspace lease executed pursuant to this section among the land records of the District of Columbia shall be exempt from the recordation tax imposed by § 42-1103.

(Sept. 19, 2006, D.C. Law 16-163, § 704, as added Apr. 15, 2008, D.C. Law 17-144, § 3(e), 55 DCR 2527; Mar. 21, 2009, D.C. Law 17-339, § 2(d), 56 DCR 947; Oct. 22, 2009, D.C. Law 18-78, § 2(g), 56 DCR 6959.)

**Effect of amendments.** — D.C. Law 17-339 rewrote the section, which had read as follows: “Notwithstanding any other provision of law, the Mayor is authorized to issue a permit for vault space adjacent to the real property subject to the lease referenced in §§ 10-1202.22 and 10-1202.23 in accordance with subchapter I of Chapter 11 of this title, coterminous with such lease and at no additional rent or fee.”

D.C. Law 18-78 inserted “The recording of any airspace lease executed pursuant to this section among the land records of the District of Columbia shall be exempt from the recordation tax imposed by § 42-1103.”

**Temporary Amendment of Section.** — Section 2(c) of D.C. Law 17-228, at the end of the section heading, inserted “or airspace lease”; substituted “permit or lease” for “permit”; substituted “vault space or airspace” for “vault space”; and substituted “and the District of Columbia Public Space Utilization Act, approved October 17, 1968 (82 Stat. 1166; D.C. Official Code § 10-1121.01 et seq.), coterminous” for “coterminous”.

Section 5(b) of D.C. Law 17-228 provided that the act shall expire after 225 days of its having taken effect.

Section 2(b) of D.C. Law 17-294 amended this section to read as follows: “Sec. 704. Authority for vault space permit or airspace lease. “Notwithstanding any other provision of law, the Mayor may issue a permit or airspace lease to Marriott International, Inc., or its designee, for vault space or airspace adjacent to the real property subject to the leases referenced in sections 702 and 703, having a term not to exceed 99 years, or such longer period as may be otherwise determined by the Mayor, and at no additional rent or fee, except as may be otherwise determined by the Mayor, but otherwise in accordance with the District of Columbia Public Space Rental Act, approved October 17, 1968 (82 Stat. 1156; D.C. Official Code § 10-1101.01 et seq.), and the District of Columbia Public Space Utilization Act, approved October 17, 1968 (82 Stat. 1166; D.C. Official Code § 10-1121.01 et seq.), as applicable.”.

Section 4(b) of D.C. Law 17-294 provided that



the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment, see § 2(c) of New Convention Center Hotel Technical Amendments Emergency Amendment Act of 2008 (D.C. Act 17-412, June 18, 2008, 55 DCR 7026).

For temporary (90 day) amendment of section, see § 2(b) of New Convention Center Hotel Emergency Amendment Act of 2008 (D.C. Act 17-556, October 27, 2008, 55 DCR 12004).

For temporary (90 day) amendment of section, see § 2(d) of New Convention Center Hotel Combined Technical Amendments Emergency Amendment Act of 2008 (D.C. Act 17-604, December 16, 2008, 56 DCR 17).

For temporary (90 day) amendment of section, see § 2(d) of New Convention Center Hotel Technical Amendments Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-28, March 16, 2009, 56 DCR 2319).

For temporary (90 day) amendment of section, see § 2(g) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

**Legislative history of Law 17-144.** — For Law 17-144, see notes following § 10-1202.01.

**Legislative history of Law 17-339.** — For Law 17-339, see notes following § 10-1202.22.

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.01.

## PART D.

### EMINENT DOMAIN FOR HOTEL.

#### § 10-1202.31. Definitions.

For the purpose of this part, the term:

(1) “New Convention Center Hotel Site” means the real property located in Lot 26 (formerly known as Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845), Square 370, bounded by 9th Street, N.W., 10th Street, N.W., L Street, N.W., and Massachusetts Avenue, N.W., Washington, D.C., and public alleys to be closed.

(2) “New Convention Center” means the comprehensive international trade and exhibition center constructed within the area bounded by 7th Street, N.W., N Street, N.W., 9th Street, N.W., and Mount Vernon Square, N.W., Washington, D.C.

(3) “New Convention Center Hotel” means a hotel to be constructed on the New Convention Center Hotel Site.

(Sept. 28, 1994, D.C. Law 10-188, § 231, formerly § 801, as added Sept. 19, 2006, D.C. Law 16-163, § 201, 53 DCR 5430; Apr. 15, 2008, D.C. Law 17-144, § 3(f), 55 DCR 2527; renumbered Mar. 25, 2009, D.C. Law 17-353, § 122(g), 56 DCR 1117; Oct. 22, 2009, D.C. Law 18-78, § 2(h), 56 DCR 6959; Sept. 26, 2012, D.C. Law 19-171, § 73(a), 59 DCR 6190.)

**Effect of amendments.** — D.C. Law 17-144 rewrote par. (1); and, in par. (3), substituted “New Convention Center Hotel Site” for “New Convention Hotel Site”. Prior to amendment, par. (1) read as follows: “(1) ‘New Convention Center Hotel Site’ means square 370, bounded by 9th Street, N.W., 10th Street, N.W., M Street, N.W., and Massachusetts Avenue, N.W., Washington, D.C., and lots 801 through 805, 40, 838, 839, 62, 65 through 67, 842, 848, 859, and 878, and square 369, bounded by M Street,

N.W., 9th Street, N.W., L Street, N.W., and 10th Street, N.W., Washington, D.C., and public alleys to be closed.”

D.C. Law 17-353, in the credit, renumbered the section designation from § 801 to § 231.

D.C. Law 18-78, in par. (1), substituted “Lot 26 (formerly known as Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845), Square 370” for “Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845, Square 370”.



The 2012 amendment by D.C. Law 19-171 made a technical correction to D.C. Law 18-78 which did not affect this section as codified.

**Emergency legislation.** — For temporary (90 day) addition, see § 201 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

For temporary (90 day) amendment of section, see § 2(h) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

**Legislative history of Law 16-163.** — Law 16-163, the “New Convention Center Hotel Omnibus Financing and Development Act of 2006”, was introduced in Council and assigned Bill

No. 16-630 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on May 2, 2006, and June 6, 2006, respectively. Signed by the Mayor on June 27, 2006, it was assigned Act No. 16-409 and transmitted to both Houses of Congress for its review. D.C. Law 16-163 became effective on September 19, 2006.

**Legislative history of Law 17-144.** — For Law 17-144, see notes following § 10-1202.01.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 10-1016.

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.01.

**Legislative history of Law 19-171.** — See note to § 10-1202.01.

## § 10-1202.32. Findings.

The Council finds that:

(1) The New Convention Center needs a New Convention Center Hotel adjacent to or in close proximity to the New Convention Center.

(2) Repealed.

(3) The construction and development of the New Convention Center Hotel will enable the Center to be more competitive in the convention market, attract increased business, provide for additional retail use, and enhance the financial viability of the Center.

(4) The assemblage of properties within the New Convention Center Hotel Site is necessary to allow for the development of a New Convention Center Hotel.

(5) The assemblage of properties in the New Convention Center Hotel site and the development of the New Convention Center Hotel is a municipal use that serves many public purposes and is in the interest of, and for the benefit of, the citizens of the District of Columbia.

(Sept. 28, 1994, D.C. Law 10-188, § 232, formerly § 802, as added Sept. 19, 2006, D.C. Law 16-163, § 201, 53 DCR 5430; Apr. 15, 2008, D.C. Law 17-144, § 3(g), 55 DCR 2527; renumbered Mar. 25, 2009, D.C. Law 17-353, § 122(h), 56 DCR 1117.)

**Effect of amendments.** — D.C. Law 17-144 repealed par. (2); rewrote par. (3); and, in par. (4), deleted “and for the expansion of the New Convention Center” from the end.

D.C. Law 17-353, in the credit, renumbered the section designation from § 802 to § 232.

**Emergency legislation.** — For temporary (90 day) addition, see § 201 of New Convention Center Hotel Omnibus Financing and Develop-

ment Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1202.31

**Legislative history of Law 17-144.** — For Law 17-144, see notes following § 10-1202.01.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 10-1016.

## § 10-1202.33. Eminent domain.

(a) The Mayor may exercise eminent domain in accordance with the procedures set forth in subchapter II of Chapter 13 of Title 16 to acquire properties in the New Convention Center Hotel Site to construct and develop

the New Convention Center Hotel and such other real properties that the Mayor determines are necessary or convenient to construct a connection between the New Convention Center Hotel and the New Convention Center.

(b) The New Convention Center Hotel shall be constructed for the purpose of enhancing the New Convention Center and, to the extent the Mayor determines feasible, shall be physically connected to the New Convention Center, above or below grade, to permit direct access between the New Convention Center Hotel and the New Convention Center. The New Convention Center Hotel shall be located adjacent to or in close proximity to the New Convention Center and shall have approximately 1,100 rooms and suites, together with meeting and ballroom space, and other ancillary facilities, including retail, customarily found in similar convention center hotels.

(Sept. 28, 1994, D.C. Law 10-188, § 233, formerly § 803, as added Sept. 19, 2006, D.C. Law 16-163, § 201, 53 DCR 5430; Apr. 15, 2008, D.C. Law 17-144, § 3(h), 55 DCR 2527; renumbered Mar. 25, 2009, D.C. Law 17-353, § 122(i), 56 DCR 1117.)

**Effect of amendments.** — D.C. Law 17-144 rewrote the section.

D.C. Law 17-353, in the credit, renumbered the section designation from § 803 to § 233.

**Emergency legislation.** — For temporary (90 day) addition, see § 201 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1202.31

**Legislative history of Law 17-144.** — For Law 17-144, see notes following § 10-1202.01.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 10-1016.

## PART D-i.

### CONSTRUCTION OF THE CONVENTION CENTER HOTEL.

#### § 10-1202.41. Construction contracting requirements.

(a) HQ Hotel, L.L.C., shall comply with the negotiated terms and conditions of the Certified Business Enterprise Utilization and Participation Agreement by and between the District of Columbia Department of Small and Local Business Development and HQ Hotel, L.L.C., which was agreed to and executed on May 1, 2009, and shall, at a minimum, contract with certified business enterprises for at least 35% of the adjusted development budget, as defined in the agreement, and require at least 20% non-institutional equity, as defined in the agreement, and 20% development participation of local, small, and disadvantaged business enterprises, all as subject to the terms of the agreement and applicable law.

(b) HQ Hotel, L.L.C., shall submit a certified business enterprises implementation forecasting plan to the Council on or before September 30, 2009. The plan shall include the following:

(1) The total amount to be paid for the construction of the new convention center hotel;

- (2) The total amount to be expended for each construction division;
- (3) The amount of each contract in each construction division;
- (4) The contractor and the amount of the contract;
- (5) Each subcontractor and the amount of the contract for each subcontractor;
- (6) The certified business enterprises participation as contractor or subcontractor and the amount of the contracts;
- (7) The amount equal to the certified business enterprises participation goal of 35% of contractor or subcontractor contracts;
- (8) A method of tracking the certified business enterprises participation and the amount of each contract from committed, to awarded, to paid;
- (9) A method of monitoring the certified business enterprises participation against the certified business enterprises forecast;
- (10) A system of remediation for any shortfalls in the certified business enterprises participation; and
- (11) A senior manager with the general contractor that has operational responsibility for meeting the certified business enterprises participation for the construction of the new convention center hotel.

(Sept. 28, 1994, D.C. 10-188, § 901, as added Oct. 22, 2009, D.C. Law 18-78, § 2(i), 56 DCR 6959; redesignated as § 241, Sept. 26, 2012, D.C. Law 19-171, § 73(b)(2), 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 redesignated D.C. Law 10-188, § 901 as D.C. Law 10-188, § 241.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(i) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

**Legislative history of Law 18-78.** — Law 18-78, the “New Convention Center Hotel Amendment Act of 2009”, as introduced in

Council and assigned Bill No. 18-310, which was referred to the Committees on Economic Development and Finance and Revenue. The bill was adopted on first and second readings on June 30, 2009, and July 31, 2009, respectively. Signed by the Mayor on August 12, 2009, it was assigned Act No. 18-185 and transmitted to both Houses of Congress for its review. D.C. Law 18-78 became effective on October 22, 2009.

**Legislative history of Law 19-171.** — See note to § 10-1202.01.

## § 10-1202.42. First Source Agreement required.

HQ Hotel, L.L.C., shall enter into a First Source Agreement with the District that shall govern certain obligations of HQ Hotel, L.L.C., pursuant to § 2-219.03 and Mayor’s Order 83-265 (November 9, 1983), regarding job creation and employment generated as a result of the construction of the new convention center hotel.

(Sept. 28, 1994, D.C. 10-188, § 902, as added Oct. 22, 2009, D.C. Law 18-78, § 2(i), 56 DCR 6959; redesignated as § 242, Sept. 26, 2012, D.C. Law 19-171, § 73(b)(3), 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 redesignated D.C. Law 10-188, § 902 as D.C. Law 10-188, § 242.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(i) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56



DCR 6967).

**Legislative history of Law 18-78.** — For note to § 10-1202.01.  
**Legislative history of Law 19-171.** — See note to § 10-1202.01.  
 Law 18-78, see notes following § 10-1202.41.

**§ 10-1202.43. Construction apprenticeship programs.**

(a) HQ Hotel, L.L.C., shall enter into an agreement that requires that:

(1) Contractors and subcontractors participate in apprenticeship programs that:

(A) Meet the standards set forth in Chapter 11 of Title 7 of the District of Columbia Municipal Regulations;

(B) Have an apprenticeship program that is registered with the District of Columbia Apprenticeship Council;

(2)(A) At least 25% of the total journey workers hours performed on the construction of the new convention center hotel shall be performed by journey workers that are District residents.

(B)(i) If a contractor or subcontractor performing work on construction of the new convention center hotel is unable to identify and hire a bona fide District of Columbia resident for any of the trade work as a journey worker for the construction of the new convention center hotel, the contractor or subcontractor shall contact the Department of Employment Services ("DC DOES") to request a list of District residents for the work.

(ii) All journey workers identified by DC DOES that are District residents shall be referred to the contractor or subcontractor making the request.

(iii) If no District residents can be identified by DC DOES to fulfill the request for a journey worker after 48 hours, the contractor or subcontractor may employ applicants from any other available source.

(3)(A) At least 60% of all apprenticeship hours by trade performed pursuant to the apprenticeship programs required by § 2-1431 shall be performed by District residents.

(B) The DC DOES Office of Apprenticeship may grant a waiver to a contractor or subcontractor if it is not able to meet the apprenticeship requirements by trade;

(4)(A) At least 60% of all skilled and unskilled laborer hours for the construction of the new convention center hotel shall be performed by District residents.

(B) For the purposes of this section, skilled laborer and unskilled laborers positions shall be defined by 40 U.S.C. §§ 3141 through 3144, 3146, and 3147;

(5)(A) Any contractor or subcontractor that fails to make a good faith effort to comply with the requirements of this section shall be subject to a monetary penalty in the amount of 5% of the direct or indirect labor costs of the contract.

(B) Penalties shall be imposed by the Mayor and all money collected from the penalties shall be deposited into the Get D.C. Residents Training for Jobs Now Career Technical Training Fund, established by § 6-1071(h)(1) [(h) repealed].

(b) The general contractor for the construction of the new convention center hotel shall deliver a workforce implementation plan to the Council on or before September 30, 2009. The plan shall include:

- (1) The total number of hours to be worked on the project by trade;
- (2) The total number of journey worker hours on the project and the total number of journey worker hours to be worked by District residents;
- (3) The total number of apprentice hours by trade and the total number of apprentice hours, by trade, to be worked by District residents;
- (4) The total number of skilled and unskilled laborer work hours to be worked and the total number of hours to be worked by District residents;
- (5) A timetable and critical path of the total work hours by trade for the construction of the new convention center hotel over 42 months;
- (6) Establishment of a workforce database of District residents that will provide contractors and subcontractors with a list of journey workers, apprentices, skilled laborers, and unskilled laborers;
- (7) A schedule for a stakeholders working group, including the Chair of the Committee on Economic Development, an Independent, At-Large Councilmember that serves on the Committee of Housing and Workforce Development, or their designees, and representatives from the First Source Agreement Program, the Office of Apprenticeship Information and Training, the Department of Small and Local Business Development, the Washington Convention Center Authority, HQ Hotel, L.L.C., and the general contractor to review and discuss the progress of the workforce mandates;
- (8) An established monitoring process, approved by DC DOES, of all contractors and subcontractors through their certified payrolls, which process shall include a monthly monitoring report including hours worked by District residents and the amount paid to District residents for each trade;
- (9) A remediation strategy to ameliorate any workforce problem encountered with contractors and subcontractors; and
- (10) A senior official from the general contractor who will be responsible for implementing the workforce mandates of this part.

(Sept. 28, 1994, D.C. Law 10-188, § 903, as added Oct. 22, 2009, D.C. Law 18-78, § 2(i), 56 DCR 6959; redesignated as § 243, Sept. 26, 2012, D.C. Law 19-171, § 73(b)(4), 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 redesignated D.C. Law 10-188, § 903 as D.C. Law 10-188, § 243.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(i) of New Convention Center Hotel Emergency Amendment Act of

2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.41.

**Legislative history of Law 19-171.** — See note to § 10-1202.01.

## § 10-1202.44. Internship program.

The operator of the new convention center hotel, the Hospitality High School of Washington, D.C., and the District of Columbia Hotel Association shall create an internship program for the Hospitality High School of Washington, D.C., students at the new convention center hotel.

(Sept. 28, 1994, D.C. 10-188, § 904, as added Oct. 22, 2009, D.C. Law 18-78, § 2(i), 56 DCR 6959; redesignated as § 244, Sept. 26, 2012, D.C. Law 19-171, § 73(b)(5), 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 redesignated D.C. Law 10-188, § 904 as D.C. Law 10-188, § 244.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(i) of New Convention Center Hotel Emergency Amendment Act of

2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.41.

**Legislative history of Law 19-171.** — See note to § 10-1202.01.

## PART E.

### MISCELLANEOUS.

## §§ 10-1203.01 to 10-1203.04. [Omitted].

**Editor's notes.** — These sections were omitted from the D.C. Code because D.C. Law 10-188, §§ 301 through 304 were not statutes

in their own right, but rather amended §§ 47-1807.02, 47-1807.02a, 47-1808.03, 47-1808.03a, 47-2002, and 47-2002.02.

## § 10-1203.05. Audit of accounts and operations.

(a) At least once every 3 fiscal years the District of Columbia Auditor, pursuant to the Auditor's duties under § 1-204.55(b), shall audit the accounts and operations of the Authority.

(b) On or before July 15 of each year in which there is outstanding any indebtedness issued by the Authority pursuant to this chapter, the District of Columbia Auditor shall prepare and deliver to the Mayor, the Council, the Chief Financial Officer of the District of Columbia, and the Chairman of the Authority a certification relating to the upcoming fiscal year of the District as to the sufficiency of the sum of the projected revenues from the following:

(1) The taxes imposed pursuant to §§ 47-2002.02 and 47-2202.01 and transferred to the Authority by the Mayor pursuant to §§ 47-2002.03 and 47-2202.02, as such tax revenues are estimated by the Office of Tax and Revenue for such upcoming fiscal year, which estimates shall be delivered by the Office of Tax and Revenue to the Authority on or prior to July 1 of such year, excluding from such estimate any amounts relating to any surtax imposed pursuant to subsection (c) of this section;

(2) The projected operating revenues of the Authority for such upcoming fiscal year contained in the most recent multiyear financial plan of the Board submitted pursuant to § 10-1202.06(g); and

(3) Any amounts on deposit in any reserve fund or account (other than any debt service reserve fund or account for indebtedness of the Authority), which are in excess of the required minimum balance for such fund or account, as certified by the Authority, to meet the sum of (i) projected operating and debt service expenditures and reserve requirements (other than amounts included in clause (ii) below) of the Authority for the upcoming fiscal year contained in the most recent multiyear financial plan of the Board submitted pursuant to



§ 10-1202.06(g), and (ii) any amounts required, as certified by the Authority, to restore any reserves relating to indebtedness of the Authority to their required minimum balance.

(c) If the certification delivered pursuant to subsection (b) of this section indicates that such projected revenues for the upcoming fiscal year are insufficient to meet such projected expenditures and reserve requirements (other than amounts included in clause (ii) of subsection (b)(3) of this section) and payments required to restore reserves relating to indebtedness of the Authority to their minimum required balance for the upcoming fiscal year, the Mayor shall impose a surtax, to become effective on or before the first day of the upcoming fiscal year, on the tax imposed pursuant to §§ 47-2002.02(1) and 47-2202.01(1) in an amount equal to the difference between (i) the sum of the projected operating and debt service expenditures and reserve requirements (other than amounts included in clause (ii) of subsection (b)(3) of this section) and payments required to restore any reserves relating to indebtedness of the Authority to their minimum required balance, and (ii) the projected revenues described in subsection (b) of this section. Such surtax shall be effective only for such upcoming fiscal year.

(Sept. 28, 1994, D.C. Law 10-188, § 305, 41 DCR 5333; Aug. 12, 1998, D.C. Law 12-142, § 2(k), 45 DCR 4826; Dec. 7, 2004, D.C. Law 15-205, § 1192(c), 51 DCR 8441.)

**Prior Codifications.** — 1981 Ed., § 9-831.

**Effect of amendments.** — D.C. Law 15-205, in subsec. (a), substituted “At least once every 3 fiscal years” for “On or before July 1 of each year.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 1192(c) of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) amendment of section, see § 1192(c) of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

**Legislative history of Law 12-142.** — Law 12-142, the “Washington Convention Center Authority Financing Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-379, which was referred to the Committee on Economic Development and the Committee on Finance and Revenue. The Bill was

adopted on first and second readings on June 2, 1998, and June 16, 1998, respectively. Signed by the Mayor on June 23, 1998, it was assigned Act No. 12-402 and transmitted to both Houses of Congress for its review. The legislation became effective on August 12, 1998, the date that the President of the United States signed P.L. 105-227, which waived the 30-day Congressional review period for this law.

**Legislative history of Law 15-205.** — For Law 15-205, see notes following § 10-831.

**Effective date.** — For effective date of D.C. Law 12-142, see Historical and Statutory Notes following § 10-1202.01.

**Editor’s notes.** — Section 2(k) of D.C. Law 12-142, effective August 12, 1998, pursuant to § 2 of Pub. L. 105-227, 112 Stat. 1515, recodified and amended § 305 of D.C. Law 10-188 to be this section.

Application of Law 12-142: Section 4 of Law 12-142 provided that § 2(k) of the act shall apply as of October 1, 1998.

## § 10-1203.06. Expiration provisions.

(a) Repealed.

(b) Sections 301, 302, 303, and 304 shall apply as of October 1, 1997.

(Sept. 28, 1994, D.C. Law 10-188, § 306, 41 DCR 5333; Aug. 12, 1998, D.C. Law 12-142, § 2(l)(1), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 9-832. 302, 303 and 304 of D.C. Law 10-188, effective September 28, 1994.  
**References in text.** — “Sections 301, 302, 303, and 304,” referenced in (b), refer to §§ 301,

## § 10-1203.07. Collection and transfer of taxes to Washington Convention Center Fund.

(a) Notwithstanding any other law, surtaxes and dedicated taxes shall be collected by the Mayor, pursuant to §§ 47-1807.02(a)(4), 47-1807.02a, 47-1808.03(a)(4), 47-1808.03a [repealed], 47-2002.02, 47-2002.03, 47-2202.01, 47-2202.02, the provisions of which are incorporated by reference in this section, and transferred to the Washington Convention Center Fund for the purposes set forth in § 10-1202.08 until any of these provisions are repealed by legislation enacted after September 27, 1996.

(b) This section shall apply as of September 27, 1996.

(Sept. 28, 1994, D.C. Law 10-188, § 307, as added Apr. 20, 1999, D.C. Law 12-264, § 21, 46 DCR 2118; Mar. 3, 2010, D.C. Law 18-111, § 2081(r), 57 DCR 181.)

**Section references.** — This section is referenced in § 10-1601.02 and § 47-2002.05.

**Prior Codifications.** — 1981 Ed., § 9-833.

**Effect of amendments.** — D.C. Law 18-111, in the section heading and subsec. (a), deleted “Authority” following “Center”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2081(r) of Fiscal Year 2010 Budget Support Second Emer-

gency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2081(r) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

## § 10-1211. Established. [Transferred].

Recodified as § 10-1271 [repealed].

(Nov. 3, 1979, D.C. Law 3-36, § 3, 26 DCR 1439; Dec. 21, 1985, D.C. Law 6-74, § 3(a), 32 DCR 6475; May 10, 1989, D.C. Law 7-231, § 23, 36 DCR 492; Mar. 6, 1991, D.C. Law 8-199, § 2, 37 DCR 7332.)

## § 10-1212. Duties and responsibilities. [Transferred].

Recodified as § 10-1272 [repealed]

(Nov. 3, 1979, D.C. Law 3-36, § 4, 26 DCR 1439; Dec. 21, 1985, D.C. Law 6-74, § 3(b), 32 DCR 6475; Nov. 5, 1990, 104 Stat. 2237, Pub. L. 101-518, § 136.)

## § 10-1213. Findings. [Transferred].

Recodified as § 10-1273 [repealed]

(Sept. 28, 1994, D.C. Law 10-188, § 401, 41 DCR 5333.)

## §§ 10-1214 to 10-1220. Duties and responsibilities of General Manager; Washington Convention Center

**Fund — Established; limitation on assets; deposits; expenditures; billings and collections; transfer of excess operating profits; Antideficiency Act applicable; annual audit; report; conflict of interest; annual report; appropriations; merit system inapplicable. [Transferred].**

Recodified as §§ 10-1274 to 10-1280.

(Sept. 28, 1994, D.C. Law 10-188, § 401, 41 DCR 5333.)

*Subchapter II. New Convention Center Hotel Financing.*

**§ 10-1221.01. Definitions.**

For the purposes of this subchapter, the term:

(1) “Authority” means the Washington Convention Center Authority [now the Washington Convention and Sports Authority] established under subchapter I of this chapter.

(2) “Authorized Delegate” means the City Administrator, the Chief Financial Officer, the Treasurer, or any officer or employee of the executive office of the Mayor to whom the Mayor has delegated any of the Mayor’s functions under this subchapter pursuant to § 1-204.22(6).

(3) “Available Real Property Tax Revenues” means the revenues resulting from the imposition of the tax provided for in Chapter 8 of Title 47, including any penalties and interest charges, exclusive of the special tax provided for in § 1-204.81 of the Home Rule Act and pledged to payment of general obligation indebtedness of the District.

(4) “Available Sales Tax Revenues” means the revenues resulting from the imposition of the tax under Chapter 20 of Title 47, including any penalties and interest charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center Fund established pursuant to § 10-1202.08.

(5) “Available Tax Increment” means the sum of the Available Sales Tax Revenues and Available Real Property Tax Revenues generated in the New Convention Center Hotel TIF Area in any fiscal year of the District, less the sum of Available Sales Tax Revenues and Available Real Property Tax Revenues generated in the New Convention Center Hotel TIF Area in the base year.

(6) “Bond Counsel” means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(7) “Bonds” means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations) authorized to be issued pursuant to this subchapter.

(8) “Chief Financial Officer” means the Chief Financial Officer established pursuant to § 1-204.24a(a).

(9) “City Administrator” means the City Administrator established pursuant to § 1-204.22(7).



(10) "Closing Documents" means all documents and agreements other than Financing Documents that may be necessary and appropriate to issue, sell, and deliver the bonds contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(11) "D.C. Citizens' Job Program" means a job training and hiring program which complies with the conditions stated in § 10-1221.05(a)(2).

(12) "Financing Documents" means the documents other than Closing Documents that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the bonds, including any offering document, and any required supplements to any such documents.

(13) "Home Rule Act" means Chapter 2 of Title 1.

(14) "New Convention Center Hotel" means a hotel to be constructed on the New Convention Hotel Site.

(15) "New Convention Center Hotel Fund" means the nonlapsing fund established under § 10-1221.03.

(16) "New Convention Center Hotel Site" means the real property located in Lot 26 (formerly known as Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845), Square 370, bounded by 9th Street, N.W., 10th Street, N.W., L Street, N.W., and Massachusetts Avenue, N.W.

(17) "New Convention Center Hotel TIF Area" means the area designated for the TIF established pursuant to § 10-1221.04 and defined therein.

(18) "Project" means the financing, refinancing, or reimbursing of costs incurred for the acquisition, construction, installing, and equipping of a hotel having approximately 1,100 rooms and suites, meeting and ballroom space, and other ancillary facilities customarily found in convention center hotels.

(19) "TIF" means tax increment financing.

(20) "Washington Convention Center Authority Act" means subchapter I of this chapter.

(Sept. 19, 2006, D.C. Law 16-163, § 101, 53 DCR 5430; Apr. 15, 2008, D.C. Law 17-144, § 2(a), 55 DCR 2527; Oct. 22, 2009, D.C. Law 18-78, § 3(a), 56 DCR 6959.)

**Effect of amendments.** — D.C. Law 17-144 rewrote pars. (16) and (18) which had read as follows: "(16) 'New Convention Center Hotel Site' means the area bounded by Ninth Street, N.W., Tenth Street, N.W., M Street, N.W., and Massachusetts Avenue, N.W." "(18) 'Project' means the financing, refinancing, or reimbursing of costs incurred for the acquisition, construction, installing, and equipping of a hotel having a minimum of 1,200 rooms and suites, together with ancillary facilities customarily found in convention center hotels."

D.C. Law 18-78 rewrote par. (16), which had read as follows: "(16) 'New Convention Center Hotel Site' means the real property located in Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845, Square 370, bounded by 9th Street, N.W., 10th Street, N.W., L Street, N.W., and Massachusetts Avenue, N.W."

**Emergency legislation.** — For temporary (90 day) addition, see § 101 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

For temporary (90 day) amendment of section, see § 3(a) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

**Legislative history of Law 16-163.** — Law 16-163, the "New Convention Center Hotel Omnibus Financing and Development Act of 2006", was introduced in Council and assigned Bill No. 16-630 which was referred to the Committee on Economic Development The Bill was adopted on first and second readings on May 2, 2006, and June 6, 2006, respectively. Signed by the Mayor on June 27, 2006, it was assigned Act No. 16-409 and transmitted to both Houses

of Congress for its review. D.C. Law 16-163 became effective on September 19, 2006.

**Legislative history of Law 17-144.** — For Law 17-144, see notes following § 10-1202.01.

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.01.

**Delegation of Authority.** — Delegation of

Authority to Dispose of Real Property Comprising a Portion of the Old convention Center Site, to Acquire Real Property for the New Convention Center Hotel Site, and to Lease Teal Property for the New Convention Center Hotel, see Mayor's Order 2007-194, August 20, 2007 (54 DCR 11631).

## § 10-1221.02. Findings.

The Council finds that:

(1) A new hotel is required at the intersection of Ninth Street and Massachusetts Avenue, N.W., to support the operations of the Washington Convention Center and to enhance the economic benefits to the District of the Washington Convention Center. The construction and development of the New Convention Center Hotel would enable the Washington Convention Center to be more competitive in the convention market, enable it to attract increased business, and enhance the financial viability of the Washington Convention Center. The development of the New Convention Center Hotel is a municipal use that serves many public purposes and is in the interest of, and for the benefit of, the citizens of the District.

(2) Section 1-204.90 provides that the Council may, by act, authorize the issuance of District revenue bonds, notes, or other obligations, including refunding bonds, notes, or other obligations, to borrow money to finance, refinance, or reimburse and to assist in the financing, refinancing, or reimbursing of undertakings in certain areas designated in § 1-204.90 where the ultimate obligation to repay such revenue bonds, notes, or other obligations is that of one or more governmental persons or entities.

(3) Section 1-204.90 provides that bonds may be issued to assist in undertakings in the area of economic development.

(4) The authorization, issuance, sale, and delivery of bonds for the payment of costs of the project are desirable, are in the public interest and will promote the purposes and intent of § 1-204.90.

(Sept. 19, 2006, D.C. Law 16-163, § 102, 53 DCR 5430; Apr. 15, 2008, D.C. Law 17-144, § 2(b), 55 DCR 2527.)

**Effect of amendments.** — D.C. Law 17-144, in par. (1), deleted “and the expansion of the Washington Convention Center” following “development of the New Convention Center Hotel”, and deleted “provide for additional retail use,” following “increased business.”

**Emergency legislation.** — For temporary (90 day) addition, see § 102 of New Convention

Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1221.01.

**Legislative history of Law 17-144.** — For Law 17-144, see notes following § 10-1202.01.

## § 10-1221.03. Creation of the New Convention Center Hotel Fund.

(a) There is hereby established separate and apart from the General Fund of the District of Columbia a special nonlapsing fund designated as the New Convention Center Hotel Fund. The Chief Financial Officer shall deposit into



the New Convention Center Hotel Fund the Available Tax Increment. The Chief Financial Officer shall create a sub-account within the New Convention Center Hotel Fund for Available Real Property Tax Revenues and Available Sales Tax Revenues and shall allocate the receipts from each to the appropriate sub-account. The Mayor may pledge and create a security interest in the funds in the New Convention Center Hotel Fund, or any sub-account or sub-accounts within the Fund, for the payment of the costs of carrying out any of the purposes described in subsection (b) of this section without further action by the Council as permitted by § 1-204.90(f). If bonds are issued, payment will be made in accordance with the provisions of the Financing Documents entered into by the District in connection with the issuance of the bonds.

(b)(1) The funds in the New Convention Center Hotel Fund may be used as follows:

(A) To secure the repayment of the bonds; and

(B) To finance, refinance, or reimburse the District or any instrumentality of the District for costs of the project.

(2)(A) If the New Convention Center Hotel Fund has funds in excess of the amount required for any purpose described in this subsection, the excess shall be transferred as follows:

(i) Until the Authority has been reimbursed in full for the Additional WCCA Funding, the first \$1 million of such excess in any fiscal year of the District shall be transferred to the Authority; and

(ii) Following any transfer to the Authority required by sub-subparagraph (i) of this subparagraph, if there are excess funds in the New Convention Center Hotel Fund, 50% of the excess shall be transferred annually to the Authority to promote tourism in the District, Washington Convention Center neighborhood development, hospitality job training and readiness programs, and other needs of the Washington Convention Center and 50% of the excess shall be transferred to the General Fund of the District of Columbia pursuant to subsection (c) of this section.

(B) For the purposes of this section, the term "Additional WCCA Funding" means the payment of \$25 million to the developer of the New Convention Center Hotel for the costs of the development and construction of the New Convention Center Hotel not paid from the proceeds of the bonds or the \$22 million payment by the Authority.

(c) If, at the end of any fiscal year of the District, the balance of cash and investments in the New Convention Center Hotel Fund exceeds the amounts required under subsection (b) of this section, including the amount of debt service and reserves on the bonds, the excess shall be transferred to the General Fund of the District of Columbia, unless the District elects to use the excess to redeem the bonds prior to maturity, either in whole or in part.

(Sept. 19, 2006, D.C. Law 16-163, § 103, 53 DCR 5430; Apr. 15, 2008, D.C. Law 17-144, § 2(c), 55 DCR 2527; Oct. 22, 2009, D.C. Law 18-78, § 3(b), 56 DCR 6959.)



**Section references.** — This section is referenced in § 10-1221.01 and § 10-1221.04.

**Effect of amendments.** — D.C. Law 17-144 rewrote subsec. (c) which had read as follows: “(c) If, at the end of any fiscal year of the District, the balance of cash and investments in the New Convention Center Hotel Fund exceeds the amounts required under subsection (b) of this section, including the amount of debt service and reserves on the bonds during the upcoming fiscal year, the excess shall be transferred to the General Fund of the District of Columbia.”

D.C. Law 18-78 rewrote subsec. (b)(2), which had read as follows: “(2) If the New Convention Center Hotel Fund has funds in excess of the amount required for any purpose described in this subsection, 50% of such excess shall be transferred annually to the Authority to promote tourism in the District, Washington Con-

vention Center neighborhood development, hospitality job training and readiness programs, and other needs of the Washington Convention Center.”

**Emergency legislation.** — For temporary (90 day) addition, see § 103 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

For temporary (90 day) amendment of section, see § 3(b) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1221.01.

**Legislative history of Law 17-144.** — For Law 17-144, see notes following § 10-1202.01.

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.01.

## § 10-1221.04. Creation of the New Convention Center Hotel TIF Area.

(a) There is created a TIF area designated as the New Convention Center Hotel TIF Area. The New Convention Center Hotel TIF Area is defined as the real property located in Lot 26 (formerly known as Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845), Square 370, bounded by 9th Street, N.W., 10th Street, N.W., L Street, N.W., and Massachusetts Avenue, N.W. As provided under § 10-1221.03, the Available Tax Increment from the New Convention Center Hotel TIF Area shall be deposited in the New Convention Center Hotel Fund and may be used as provided herein, including as security for the repayment of the bonds.

(b) The base year for determination of Available Sales Tax Revenues from the New Convention Center Hotel TIF Area shall be the tax year preceding the year when this subchapter becomes effective and the base year for determination of Available Real Property Tax Revenues from the New Convention Center Hotel TIF Area shall be the fiscal year of the District when this subchapter becomes effective and the initial assessed value to be used in making such determination shall be the assessed value of each lot of taxable real property in the New Convention Center Hotel TIF Area on September 19, 2006.

(Sept. 19, 2006, D.C. Law 16-163, § 104, 53 DCR 5430; Apr. 15, 2008, D.C. Law 17-144, § 2(d), 55 DCR 2527; Oct. 22, 2009, D.C. Law 18-78, § 3(c), 56 DCR 6959.)

**Section references.** — This section is referenced in § 10-1221.01.

**Effect of amendments.** — D.C. Law 17-144 rewrote subsec. (a), which had read as follows: “(a) There is hereby created a TIF area designated as the New Convention Center Hotel TIF Area. The New Convention Center Hotel TIF Area is defined as the real property located in lots 801 through 805, 40, 838, 839, 62, 65 through 67, 842, 848, 859, and 878, square 369,

bounded by M Street, N.W., 9th Street, N.W., L Street, N.W., and 10th Street, N.W., and square 370, bounded by 9th Street, N.W., 10th Street, N.W., M Street, N.W., and Massachusetts Avenue, N.W. As provided under § 10-1221.03, the Available Tax Increment from the New Convention Center Hotel TIF Area shall be deposited in the New Convention Center Hotel Fund and may be used as provided therein, including as security for the repayment of the bonds.”

D.C. Law 18-78, in subsec. (a), substituted “Lot 26 (formerly known as Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845), Square 370” for “Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845, Square 370”.

**Emergency legislation.** — For temporary (90 day) addition, see § 104 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

For temporary (90 day) amendment of section, see § 3(c) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1221.01.

**Legislative history of Law 17-144.** — For Law 17-144, see notes following § 10-1202.01.

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.01.

## § 10-1221.05. Bond authorization.

(a) The Council approves and authorizes the issuance to the Authority of bonds in an aggregate amount sufficient to provide net proceeds as follows:

- (1) An amount not to exceed \$159 million for the costs of the project; and
- (2) The amount of \$2 million for the D.C. Citizens’ Job Program; provided,

that:

(A) The program shall begin no later than 2 years before the completion of the construction of the New Convention Center Hotel.

(B) The program shall train and hire citizens of the District for permanent employment positions in the New Convention Center Hotel.

(C) The development, administration, and oversight of the program shall be the responsibility of the Authority.

(D) The Authority shall ensure that Marriott International, Inc.; representatives of organized labor; ONE DC (formerly known as Manna CDC), a community development corporation organized in the District; and other community organizations which have demonstrated experience in providing effective job training and placement in hospitality industry jobs participate in the development of the program.

(E) The program shall be designed to provide job-specific training which meets the specifications of positions to be filled at the New Convention Center Hotel and shall provide that District citizens who successfully complete the training be given first consideration for the jobs for which they have been trained.

(b) The bonds shall be tax-exempt or taxable as the Mayor shall determine and shall be payable from and secured by funds in the New Convention Center Hotel Fund (or the portion of such funds as shall be determined in accordance with the terms of the bonds for the payment of debt service on the bonds).

(c) The Mayor is authorized to pay from the proceeds of the bonds the costs and expenses of issuing and delivering the bonds, including, but not limited to, underwriting, legal, accounting, financial advisory, bond insurance or other credit enhancement, marketing and selling the bonds, and printing costs and expenses.

(Sept. 19, 2006, D.C. Law 16-163, § 105, 53 DCR 5430; Oct. 22, 2009, D.C. Law 18-78, § 3(d), 56 DCR 6959.)

**Section references.** — This section is referenced in § 10-1221.01.

**Effect of amendments.** — D.C. Law 18-78,

in the lead-in text of subsec. (a), substituted “sufficient to provide net proceeds” for “not to exceed \$187 million. The net proceeds shall be



used”; and rewrote subsec. (a)(1), which had read as follows: “(1) The amount of \$134 million for the costs of the project; and”.

**Emergency legislation.** — For temporary (90 day) addition, see § 105 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

For temporary (90 day) amendment of section, see § 3(d) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1221.01.

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.01.

## § 10-1221.06. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this subchapter in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the bonds, including, but not limited to, determinations of:

- (1) The final form, content, designation, and terms of the bonds;
- (2) The principal amount of the bonds to be issued and denominations of the bonds;
- (3) The rate or rates of interest or the method for determining the rate or rates of interest on the bonds;
- (4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the bonds, and the maturity date or dates of the bonds;
- (5) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, or called;
- (6) Provisions for the registration, transfer, and exchange of the bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;
- (7) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds; and
- (8) The time and place of payment of the bonds.

(b) The bonds shall contain a legend which shall provide that the bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District (other than the taxes and fees allocated to the New Convention Center Hotel Fund), do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary’s manual or facsimile signature.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds.

(e) The bonds are declared to be issued for essential public and governmental purposes. The bonds, the interest thereon and the income therefrom, and all monies pledged or available to pay or secure the payment of the bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

(f) The District does hereby pledge, covenant, and agree with the holders of the bonds that, subject to the provisions of the Financing Documents, the



District will not limit or alter the revenues pledged to secure the bonds or the basis on which such revenues are collected or allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the bonds, will not in any way impair the rights or remedies of the holders of the bonds, and will not modify in any way, the exemptions from taxation provided for in this subchapter, until the bonds, together with interest thereon, and all costs and expenses in connection with any suit, action or proceeding by or on behalf of the holders of the bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the bonds. This subsection constitutes a contract between the District and the holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict with this subchapter, this subchapter shall be controlling.

(Sept. 19, 2006, D.C. Law 16-163, § 106, 53 DCR 5430.)

**Emergency legislation.** — For temporary (90 day) addition, see § 106 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1221.01.

## § 10-1221.07. Issuance of the bonds.

(a) The bonds shall be issued as a TIF note to the Authority and may be held and used as security for bonds to be issued by the Authority.

(b) The bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the bonds and, if the interest on the bonds is expected to be exempt from federal income taxation, the treatment of the interest on the bonds for purposes of federal income taxation.

(Sept. 19, 2006, D.C. Law 16-163, § 107, 53 DCR 5430.)

**Emergency legislation.** — For temporary (90 day) addition, see § 107 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1221.01.

## § 10-1221.08. Payment and security.

Except as may be otherwise provided in this subchapter, the principal of, premium, if any, and interest on, the bonds shall be payable solely from proceeds received from the sale of the bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District and deposited in the New Convention Center Hotel Fund, and income realized from the temporary investment of those receipts and revenues.

(Sept. 19, 2006, D.C. Law 16-163, § 108, 53 DCR 5430.)

**Emergency legislation.** — For temporary (90 day) addition, see § 108 of New Convention

Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404,

June 26, 2006, 53 DCR 5404).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1221.01.

### § 10-1221.09. Financing Documents and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds, the other Financing Documents, and the Closing Documents to which the District is a party.

(d) Unit A of Chapter 3 of Title 2 and subchapter III-A of Chapter 3 of Title 47 shall not apply to the Financing Documents, Closing Documents, and any other contract the Mayor may from time to time enter into in connection with the Project.

(Sept. 19, 2006, D.C. Law 16-163, § 109, 53 DCR 5430; Apr. 15, 2008, D.C. Law 17-144, § 2(e), 55 DCR 2527.)

**Effect of amendments.** — D.C. Law 17-144 added subsec. (d).

**Emergency legislation.** — For temporary (90 day) addition, see § 109 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1221.01.

**Legislative history of Law 17-144.** — For Law 17-144, see notes following § 10-1202.01.

### § 10-1221.10. Limited liability.

(a) The bonds shall be special obligations of the District. The bonds shall be without recourse to the District. The bonds shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or the taxing power of the District (other than the Available Tax Increment from the New Convention Center Hotel TIF Area), shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(b) No person, including, but not limited to, any bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this subchapter, the bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

(Sept. 19, 2006, D.C. Law 16-163, § 110, 53 DCR 5430.)

**Section references.** — This section is referenced in § 10-1221.11.

**Emergency legislation.** — For temporary (90 day) addition, see § 110 of New Convention Center Hotel Omnibus Financing and Develop-

ment Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1221.01.

## § 10-1221.11. District officials.

(a) Except as otherwise provided in § 10-1221.10(b), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds or be subject to any personal liability by reason of the issuance of the bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this subchapter, the bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing Documents.

(Sept. 19, 2006, D.C. Law 16-163, § 111, 53 DCR 5430.)

**Emergency legislation.** — For temporary (90 day) addition, see § 111 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1221.01.

## § 10-1221.12. Maintenance of documents.

Copies of the specimen bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

(Sept. 19, 2006, D.C. Law 16-163, § 112, 53 DCR 5430.)

**Emergency legislation.** — For temporary (90 day) addition, see § 112 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1221.01.

## § 10-1221.13. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

(Sept. 19, 2006, D.C. Law 16-163, § 113, 53 DCR 5430.)



**Emergency legislation.** — For temporary (90 day) addition, see § 113 of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

**Legislative history of Law 16-163.** — For Law 16-163, see notes following § 10-1221.01

#### § 10-1221.14. Recovery zone designation.

(a) The Mayor may designate recovery zones pursuant to sections 1400U-1, 1400U-2, and 1400U-3 of the Internal Revenue Code of 1986, approved February 17, 2009 (123 Stat. 348; 26 U.S.C. §§ 1400U-1, 1400U-2, and 1400U-3).

(b) Square 370, having been determined to be an area of general distress, is designated as a recovery zone.

(Sept. 19, 2006, D.C. 16-133, § 113a, as added Oct. 22, 2009, D.C. Law 18-78, § 3(e), 56 DCR 6959.)

**Emergency legislation.** — For temporary (90 day) addition, see § 3(e) of New Convention Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.01.

#### § 10-1221.15. Federal recovery act reimbursement requirement.

If the District or the Authority receive reimbursement, subsidy, or TIF debt service relief in excess of the funds required by the bond covenant authorized by this subchapter, pursuant to the American Recovery and Reinvestment Act of 2009, approved February 17, 2009 (123 Stat. 115; 26 U.S.C. § 1, note), the revenue and relief shall be credited to the District and shall be deposited in the General Fund of the District of Columbia.

(Sept. 19, 2006, D.C. 16-133, § 113b, as added Oct. 22, 2009, D.C. Law 18-78, § 3(e), 56 DCR 6959.)

**Cross references.** — American Recovery and Reinvestment Act of 2009, 123 Stat. 115, 111 P.L. 5.

Center Hotel Emergency Amendment Act of 2009 (D.C. Act 18-186, August 12, 2009, 56 DCR 6967).

**Emergency legislation.** — For temporary (90 day) addition, see § 3(e) of New Convention

**Legislative history of Law 18-78.** — For Law 18-78, see notes following § 10-1202.01.

### *Subchapter III. Washington Convention Center Board of Directors.*

#### PART A.

#### GENERAL.

#### § 10-1271. Established. [Repealed].

Repealed.

(Nov. 3, 1979, D.C. Law 3-36, § 3, 26 DCR 1439; Dec. 21, 1985, D.C. Law 6-74, § 3(a), 32 DCR 6475; May 10, 1989, D.C. Law 7-231, § 23, 36 DCR 492; Mar. 6, 1991, D.C. Law 8-199, § 2, 37 DCR 7332; Mar. 3, 2010, D.C. Law 18-111, § 2082(l), 57 DCR 181.)

**Prior Codifications.** — 2001 Ed., § 10-1211.

1981 Ed., § 9-602.

1973 Ed., § 9-602.

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 2082(l) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal of section, see § 2082(l) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 3-36.** — For legislative history of D.C. Law 3-36, see Historical and Statutory Notes following § 10-1213.

**Legislative history of Law 6-74.** — Law 6-74, the “Fiscal Year 1986 Follow-Through Act of 1985,” was introduced in Council and assigned Bill No. 6-206, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on July 9, 1985 and October 8, 1985, respectively. Approved without the signature of

the Mayor on October 29, 1985, it was assigned Act No. 6-98 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-231.** — Law 7-231, the “Technical Amendments Act of 1988,” was introduced in Council and assigned Bill No. 7-586 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-199.** — Law 8-199, the “Washington Convention Center Management Act of 1979 Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-447, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on October 9, 1990, and October 23, 1990, respectively. Signed by the Mayor on November 8, 1990, it was assigned Act No. 8-262 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

## § 10-1272. Duties and responsibilities. [Repealed].

Repealed.

(Nov. 3, 1979, D.C. Law 3-36, § 4, 26 DCR 1439; Dec. 21, 1985, D.C. Law 6-74, § 3(b), 32 DCR 6475; Nov. 5, 1990, 104 Stat. 2237, Pub. L. 101-518, § 136; Mar. 3, 2010, D.C. Law 18-111, § 2082(l), 57 DCR 181.)

**Prior Codifications.** — 2001 Ed., § 10-1212.

1981 Ed., § 9-603.

1973 Ed., § 9-603.

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 2082(l) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal of section, see § 2082(l) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 3-36.** — For legislative history of D.C. Law 3-36, see Historical and Statutory Notes following § 10-1213.

**Legislative history of Law 6-74.** — For legislative history of D.C. Law 6-74, see Historical and Statutory Notes following § 10-1211.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Transfer of Functions.** — The functions of the Department of General Services were transferred, in part, to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984, and transferred, in part, to the Department of Administrative Services by Reorganization Plan No. 5 of 1983, effective March 1, 1984.

**Editor’s notes.** — Council’s desire not to approve proposed food service contract: Pursuant to Resolution 7-148, the “Washington Convention Center Food Service Contract Resolution of 1987,” effective November 10, 1987, the Council expressed its desire not to approve a proposed food service contract entered into between the Convention Center Board of Directors and Service America Concessions Corporation/National Business Services Enterprises,

Inc., dated September 23, 1986, and submitted to Council by the Convention Center Board of Directors on October 6, 1987, and the Council

recommended that the food service contract be rebid.

## PART B.

### REPEALED PROVISIONS.

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#### § 10-1273. Findings. [Repealed].

Repealed.

(Sept. 28, 1994, D.C. Law 10-188, § 401, 41 DCR 5333.)

**Prior Codifications.** — 2001 Ed., § 10-1213.

1981 Ed., § 9-601.

**Legislative history of Law 10-188.** — Law 10-188, the “Washington Convention Center Authority Act of 1994,” was introduced in Council and assigned Bill No. 10-527, which was referred to the Committee on Economic Development and Sequential to the Committee of the Whole. The Bill was adopted on first and second readings on July 5, 1994, and July 19, 1994, respectively. Signed by the Mayor on August 2,

1994, it was assigned Act No. 10-314 and transmitted to both Houses of Congress for its review. D.C. Law 10-188 became effective on September 28, 1994.

**Editor’s notes.** — Repeal of Washington Convention Center Management Act: Section 401 of D.C. Law 10-188 provided that all sections of the Washington Convention Center Management Act of 1979, effective November 3, 1979, except for §§ 3 and 4, which are codified as §§ 10-1211 and 10-1212, are repealed.

#### §§ 10-1274 to 10-1280. Duties and responsibilities of General Manager; Washington Convention Center Fund — established; limitation on assets; deposits; expenditures; billings and collections; transfer of excess operating profits; Antideficiency Act applicable; annual audit; report; conflict of interest; annual report; appropriations; merit system inapplicable.

Repealed.

(Sept. 28, 1994, D.C. Law 10-188, § 401, 41 DCR 5333.)

**Prior Codifications.** — 2001 Ed., §§ 10-1214 to 10-1220.

1981 Ed., §§ 9-604 to 9-610.

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1213.

**Legislative history of Law 10-188.** — For

legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 10-1213.

**Editor’s notes.** — Repeal of Washington Convention Center Management Act: See Historical and Statutory Notes following § 10-1213.



CHAPTER 13. JOHN A. WILSON BUILDING.

*Subchapter I. John A. Wilson Building Designation*

Sec.

10-1301. John A. Wilson Building designated.

10-1302. Establishment of the John A. Wilson Building Centennial Fund.

*Subchapter II. John A. Wilson Building Foundation*

Sec.

10-1332. Establishment of the Wilson Building Foundation.

10-1333. Renovation Development Trust Fund.

10-1334. Establishment of Board of Directors.

10-1335. Administration of the Foundation.

10-1336. Sunset provision.

10-1331. Findings.

*Subchapter I. John A. Wilson Building Designation.*

**§ 10-1301. John A. Wilson Building designated.**

(a) Notwithstanding the provisions of Chapter 8 of this title, or any other law, the building and all property located in Square 255, located at 1350 Pennsylvania Avenue, N.W., popularly referred to as the "District Building" ("Property"), is hereby designated under the exclusive authority of the Council to determine the use, management, maintenance, operation, repair, renovation, security, lease, sale, or other disposition of the Property.

(b)(1) The Secretary of the Council shall be responsible for the use, management, maintenance, operation, repair, renovation, security, lease, sale, or other disposition of the Property, in accordance with rules of the Council.

(2) The Secretary of the Council is authorized to:

(A) Enter into intra-District transfer and other agreements with agencies of the District government to provide goods or services for the use, management, maintenance, operation, repair, renovation, security, lease, sale, or other disposition of the Property;

(B) Enter into contracts or other agreements with private entities to provide goods or services for the use, management, maintenance, operation, repair, renovation, security, lease, sale, or other disposition of the Property; and

(C) Enter into lease or other agreements, with or without monetary consideration, with entities of the District government and with private entities for the use of space within the Property.

(3) In the execution of paragraph (2)(A) of this subsection, preference should be given to those entities occupying space within the Property on November 25, 1993, those entities whose location within the Property would result in a cost savings to the District government, and those entities providing goods or services that are beneficial to the local community.

(4) Any rent, fee, or proceeds derived from any lease or other use agreement entered into pursuant to this section shall be paid to the Treasury of the District of Columbia, and accounted for in the General Fund as a separate revenue source allocable to provide authority for the Council to expend funds for the management of these leases or other use agreements, and for the use, management, maintenance, operation, repair, renovation, security, lease, sale, or other disposition of the Property.

(5) The Secretary of the Council shall be the exclusive authority for the issuance of permits for official parking spaces on the following streets adjacent to or near the Property:

(A) The south side of Pennsylvania Avenue, N.W., between 12th and 13th Streets, N.W.;

(B) The north and south sides of Pennsylvania Avenue, N.W., between 13th and 14th Streets, N.W.;

(C) The south side of Pennsylvania Avenue, N.W., between 14th and 15th Streets, N.W.;

(D) Both sides of D Street, N.W., between 13 ½ and 14th Streets, N.W.;

(E) Both sides of 13 ½ Street, N.W., between Pennsylvania Avenue, N.W., and D Street, N.W.; and

(F) The east side of 14th Street, N.W., between D Street, N.W., and Pennsylvania Avenue, N.W.

(c) The Council may accept and use private gifts or donations for the purpose of providing goods or services for the use, management, maintenance, operation, repair, renovation, security, lease, sale, or other disposition of the Property as determined by the Secretary of the Council.

(d)(1) In accordance with § 1-204.04(b), the functions of the Department of Administrative Services, the Department of Public Works, and any other agencies, that are related to the use, management, maintenance, operation, repair, renovation, security, lease, sale, or other disposition of the Property, and any position, property, record, contract, unexpended balance of appropriations, allocation, or other operating or capital funds, that are related to, available for, or to be made available for the use, management, maintenance, repair, renovation, security, lease, sale, or other disposition of the Property, are transferred to the Council.

(2) In the execution of paragraph (1) of this subsection, the Department of Administrative Services, the Department of Public Works, and any other agency shall enter into intra-District transfer or other agreements, as determined by the Secretary of the Council.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the Department of Administrative Services, the Department of Public Works, or any other agency of the District government which, prior to November 25, 1993, has directly or indirectly provided maintenance, security, or other goods or services to the Property shall continue to provide these goods and services, at an adequate level as determined by the Secretary of the Council, until intra-District transfer or other agreements pertaining to these goods and services are entered into between the agency and the Secretary of the Council.

(Nov. 25, 1993, D.C. Law 10-65, § 601, 40 DCR 7351.)

**Section references.** — This section is referenced in § 10-1331.

**Prior Codifications.** — 1981 Ed., § 9-701.

**Emergency legislation.** — For temporary (90 day) establishment of the John A. Wilson

Building Centennial Fund, see § 4 of Fiscal Year 2008 Supplemental Appropriations Emergency Act of 2007 (D.C. Act 17-239, January 11, 2008, 55 DCR 967).

For temporary (90 day) addition, see § 1015



of Fiscal Year 2009 Budget Support Emergency Act of 2008 (D.C. Act 17-468, July 28, 2008, 55 DCR 8746).

**Legislative history of Law 10-65.** — D.C. Law 10-65, the “Omnibus Spending Reduction Act of 1993,” was introduced in Council and assigned Bill No. 10-323, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on July 21, 1993, and September 21, 1993, respectively. Signed by the Mayor on October 6, 1993, it was assigned Act No. 10-120 and transmitted to both Houses of Congress for its review. D.C. Law 10-65 became effective on November 25, 1993.

**Resolutions.** — Resolution 14-10, the “Assignment of the General Services Administration Lease Approval Emergency Resolution of 2001”, was approved effective January 2, 2001.

Resolution 14-61, the “Wilson Building Settlement Agreement Approval Emergency Resolution of 2001”, was approved effective March 13, 2001.

**Mayor’s Orders.** — Designation of District Building for use by the Council of the District of Columbia: See Mayor’s Order 93-14, March 5, 1993.

**Establishment and Appointments** — Task Force on the Historical John A. Wilson Building, see Mayor’s Order 2002-42, March 8, 2002 (49 DCR 2242).

**Editor’s notes.** — Unsolicited Proposal to Enter Into a Memorandum of Understanding to

Authorize the Washington Development Group, Inc., to Submit a Development Proposal for the Restoration and Renovation of the Wilson Building Resolution of 1995: Pursuant to Resolution 11-97, effective July 11, 1995, the Council approved an unsolicited proposal for a memorandum of understanding to authorize the development of a proposal for the restoration and renovation of the John A. Wilson Building.

Endorsement of the Establishment of the John A. Wilson Building Foundation and Washington Development Group, Inc., Development Plan Conditional Approval Resolution of 1995: Pursuant to Resolution 11-172, effective November 7, 1995, the Council endorsed the formation of the John A. Wilson Building Foundation, a nonprofit organization to raise funds to pay for the renovation and restoration, or the full municipal use, of the John A. Wilson Building, and conditionally approved the development plan for the renovation and restoration of the John A. Wilson Building submitted by the Washington Development Group, Inc.

General Services Administration Lease Approval Emergency Resolution of 1996: Pursuant to Resolution 11-470, effective July 17, 1996, Council approved, on an emergency basis, the lease between the Council of the District of Columbia and the United States General Services Administration for office space in the John A. Wilson Building to generate funds for the renovation and restoration of the John A. Wilson Building.

## § 10-1302. Establishment of the John A. Wilson Building Centennial Fund.

(a) There is established as a nonlapsing fund the John A. Wilson Building Centennial Fund (“Fund”), to be administered by the Secretary to the Council, to be used for the purpose of providing resources for the commemoration of the 100th anniversary of the opening of the building, formerly known as the District Building, as the permanent location for the municipal government in Washington, D.C., and any other purpose set forth in subsection (c) of this section.

(b) Deposits into the Fund shall include appropriated funds, other District funds, private gifts, donations, and receipts from the sale of memorabilia and information commemorating the 100th anniversary of the John A. Wilson Building. All funds deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(c) The Secretary to the Council may expend monies in the Fund, to commemorate the anniversary, including the following activities:

(1) Planning, developing, and executing programs and activities appro-



priate to commemorate the 100th anniversary of the opening of the building, which occurred on or about July 4, 1908;

(2) Identifying appropriate displays and activities to showcase the history of the building and of elected government in the District of Columbia, and officials who have shaped the history of the District of Columbia;

(3) Recommending building upgrades that reflect the status of the building as the seat of municipal government;

(4) Assessing the need for an ongoing effort to document the history of the District of Columbia government;

(5) Outlining a program or programs to involve the public in learning more about the history of the Council of the District of Columbia and elected government in the District of Columbia;

(6) Encouraging educational, historical, civic, and other organizations to participate in the anniversary activities to expand the understanding of the history of elected government in the District of Columbia;

(7) Facilitating and coordinating scholarly research on and publication of historical information on the building and District of Columbia elected officials;

(8) Assuring that the observances appropriately recognize the former Mayors, Councilmembers, and others who have contributed to the growth and development of the building and elected government in the District; and

(9) Facilitating other activities related to the centennial, in and around the building, as appropriate, including receptions, parades, festivals, or other activities, and the provision of food, snacks, entertainment, and non-alcoholic beverages to the general public, and participants of those activities.

(d) The Secretary to the Council is authorized to purchase and sell books, pamphlets, memorabilia, and other materials and information.

(Nov. 25, 1993, D.C. Law 10-65, § 601a, as added Aug. 16, 2008, D.C. Law 17-219, § 1015, 55 DCR 7598.)

**Legislative history of Law 17-219.** — For Law 17-219, see notes following § 10-1016.

**Short title.** — Short title: Section 1014 of D.C. Law 17-219 provided that subtitle G of

title I of the act may be cited as the “John A. Wilson Building Centennial Fund Establishment Amendment Act of 2008”.

## *Subchapter II. John A. Wilson Building Foundation.*

### **§ 10-1331. Findings.**

The Council of the District of Columbia finds that:

(1) Pursuant to § 10-1301, the Council has the exclusive authority to determine the use, management, maintenance, operation, repair, renovation, security, lease, and sale or other disposition of the building located at 1350 Pennsylvania Avenue, N.W., known as the John A. Wilson Building (“Wilson Building”).

(2) The Wilson Building is the traditional seat of local government located on Pennsylvania Avenue, the “Main Street” of the Nation’s Capital, and a source of pride and hope for our District residents.

(3) The Wilson Building is in need of renovation and restoration and contains environmental conditions which should be eliminated to provide a safe and healthy working environment and to ensure compliance with all federal and local building regulations.

(4) Because of the current fiscal state of the District government, funds are not available to make expenditures estimated at \$47.1 million to \$60 million to renovate and restore the Wilson Building.

(Apr. 9, 1997, D.C. Law 11-180, § 2, 43 DCR 4246.)

**Prior Codifications.** — 1981 Ed., § 9-731.

**Emergency legislation.** — For temporary addition of subchapter, see §§ 2 through 8 of the Establishment of the John A. Wilson Building Foundation Emergency Act of 1995 (D.C. Act 11-161, November 27, 1995, 42 DCR 6781), §§ 2 through 8 of the Establishment of the John A. Wilson Building Foundation Congressional Review Emergency Act of 1996 (D.C. Act 11-209, February 14, 1996, 43 DCR 798), § 2 through 7 of the John A. Wilson Building Foundation Congressional Review Emergency Act of 1996 (D.C. Act 11-406, October 24, 1996, 43 DCR 5814), and § 2 through 7 of the Establishment of the John A. Wilson Building Founda-

tion Congressional Adjournment Emergency Act of 1997 (D.C. Act 12-8, March 3, 1997, 44 DCR 1625).

**Legislative history of Law 11-180.** — Law 11-180, the “John A. Wilson Building Foundation Act,” was introduced in Council and assigned Bill No. 11-503, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 4, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 22, 1996, it was assigned Act No. 11-331 and transmitted to both Houses of Congress for its review. D.C. Law 11-180 became effective on April 9, 1997.

## § 10-1332. Establishment of the Wilson Building Foundation.

(a) There is established in the District of Columbia the John A. Wilson Building Foundation (“Foundation”), a private-public nonprofit corporation.

(b) The purposes of the Foundation are:

(1) To develop a long-range plan for the use of the Wilson Building by the District government and by the public; and

(2) To develop and implement a fundraising plan to pay for the renovation and restoration of the Wilson Building.

(Apr. 9, 1997, D.C. Law 11-180, § 3, 43 DCR 4246.)

**Prior Codifications.** — 1981 Ed., § 9-732.

**Emergency legislation.** — See Historical and Statutory Notes following § 10-1331.

**Legislative history of Law 11-180.** — For

legislative history of D.C. Law 11-180, see Historical and Statutory Notes following § 10-1331.

## § 10-1333. Renovation Development Trust Fund.

(a) There is established a special trust fund to be known as the Renovation Development Trust Fund (“Fund”).

(b) The Foundation shall be responsible for administering the Fund.

(c) The monies deposited into the Fund shall not be a part of, nor lapse into, the General Fund of the District.

(d) Monies in the Fund may derive from any of the following sources:

(1) Private donations;

(2) Federal grants;

(3) Other funds received by the Foundation; and

(4) Interest or other investment earnings on monies deposited in the Fund.

(e) The Foundation shall ensure that monies deposited in the Fund earn the highest and safest rate of return as practicable.

(f) The Fund shall be used for the following purposes:

(1) As collateral or direct financing for the complete renovation and restoration of the Wilson Building; and

(2) To buy out the remaining balance of any loan negotiated between Washington Development Group, Inc., and any financial institution for the renovation and restoration of the Wilson Building, as the Council may direct pursuant to the Endorsement of the Establishment of the John A. Wilson Building Foundation and Washington Development Group, Inc., Development Plan Conditional Approval Resolution of 1995 (Resolution 11-172; 42 DCR 6428), effective November 24, 1995.

(g) No more than 15% of the monies deposited in the Fund may be used by the Foundation for operating expenses of the Foundation, including the cost of maintaining the Fund.

(h) If within one year of April 9, 1997, the Foundation has not raised over \$1 million in funds, all funds remaining in the Fund at that time shall be returned to the donors or grantors on a pro rata basis minus the administrative costs limited by subsection (g) of this section associated with returning the monies.

(Apr. 9, 1997, D.C. Law 11-180, § 4, 43 DCR 4246.)

**Section references.** — This section is referenced in § 10-1336.

**Prior Codifications.** — 1981 Ed., § 9-733.

**Emergency legislation.** — See Historical and Statutory Notes following § 10-1331.

**Legislative history of Law 11-180.** — For legislative history of D.C. Law 11-180, see Historical and Statutory Notes following § 10-1331.

## § 10-1334. Establishment of Board of Directors.

(a) A Board of Directors ("Board") is established to meet the objectives of the Foundation and to administer the Fund.

(b) The Board shall be composed of residents of the District of Columbia who are collectively representative of the geographical, ethnic, economic, and social diversity of the District of Columbia. Advisory committees and subcommittees that may be established by the Foundation may be composed of residents and nonresidents of the District.

(c) The Board shall be composed of the following members:

(1) One member appointed by each member of the Council, with the chairperson of the Board appointed by the Chairman of the Council;

(2) The Secretary to the Council;

(3) The Archivist of the District of Columbia;

(4) A representative of the Historical Society of Washington, D.C.;

(5) A representative of the D.C. Preservation League;

(6) A representative of the National Trust for Historic Preservation;

(7) A representative designated by the Mayor of the District of Columbia; and



(8) A representative designated by the John A. Wilson family.

(d) The Board shall:

(1) Have the power to adopt, amend, or repeal by-laws for operation of the Foundation;

(2) Meet not less than quarterly at times to be determined;

(3) Prepare and submit to the Council quarterly reports on the progress on the Foundation's fundraising;

(4) Be authorized to hire staff; and

(5) Be authorized to exercise all powers conferred upon a nonprofit corporation pursuant to Chapters 1, 2, and 4 of Title 29.

(Apr. 9, 1997, D.C. Law 11-180, § 5, 43 DCR 4246; July 2, 2011, D.C. Law 18-378, § 3(d), 58 DCR 1720.)

**Prior Codifications.** — 1981 Ed., § 9-734.

**Effect of amendments.** — D.C. Law 18-378, in subsec. (d)(5), substituted "Chapters 1, 2, and 4 of Title 29" for "Chapter 3 of Title 29".

**Emergency legislation.** — See Historical and Statutory Notes following § 10-1331.

**Legislative history of Law 11-180.** — For legislative history of D.C. Law 11-180, see Historical and Statutory Notes following § 10-1331.

**Legislative history of Law 18-378.** — Law 18-378, the "District of Columbia Official Code

Title 29 (Business Organizations) Enactment Act of 2009", was introduced in Council and assigned Bill No. 18-500, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on February 27, 2011, it was assigned Act No. 18-724 and transmitted to both Houses of Congress for its review. D.C. Law 18-378 became effective on July 2, 2011.

## § 10-1335. Administration of the Foundation.

The Secretary to the Council is responsible for the administration of the Foundation. No more than 15% of the total funds raised in any given year can be used for the administrative support, including staff, supplies, and promotional activities of the Foundation.

(Apr. 9, 1997, D.C. Law 11-180, § 6, 43 DCR 4246.)

**Prior Codifications.** — 1981 Ed., § 9-735.

**Emergency legislation.** — See Historical and Statutory Notes following § 10-1331.

**Legislative history of Law 11-180.** — For

legislative history of D.C. Law 11-180, see Historical and Statutory Notes following § 10-1331.

## § 10-1336. Sunset provision.

If the Foundation has returned monies deposited in the Fund pursuant to § 10-1333(h), the Foundation shall cease all operations.

(Apr. 9, 1997, D.C. Law 11-180, § 7, 43 DCR 4246.)

**Prior Codifications.** — 1981 Ed., § 9-736.

**Emergency legislation.** — See Historical and Statutory Notes following § 10-1331.

**Legislative history of Law 11-180.** — For

legislative history of D.C. Law 11-180, see Historical and Statutory Notes following § 10-1331.

## CHAPTER 14. NATIONAL CHILDREN'S ISLAND.

*Subchapter I. General*

Sec.

10-1401. Definitions.

10-1402. Property transfer.

10-1403. Provisions relating to lands transferred and easements granted.

10-1404. Effect of property transfer.

10-1405. Savings provisions.

Sec.

10-1406. Comprehensive and Anacostia Waterfront Framework Plans.

*Subchapter II. Children's Island Development Plan*

10-1431. Submission of development plan.

10-1432. Development plan defined.

*Subchapter I. General.***§ 10-1401. Definitions.**

For the purposes of this subchapter:

(1) The term "plat" means the plat filed in the Office of the Surveyor of the District of Columbia under S.O. 92-252.

(2) The term "District" means the District of Columbia.

(3) The term "Islands" means Heritage Island and all of that portion of Kingman Island located south of Benning Road and within the District of Columbia and the Anacostia River, being a portion of United States Reservation 343, Section F, as specified and legally described on the Survey.

(4) The term "National Children's Island" means a cultural, educational, and family-oriented recreation park, together with a children's playground, to be developed and operated in accordance with subchapter II of this chapter.

(5) The term "playground" means the children's playground that is part of National Children's Island and includes all lands on the Islands located south of East Capitol Street.

(6) The term "recreation park" means the cultural, educational, and family-oriented recreation park that is part of National Children's Island.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "Survey" means the ALTA/ACSM Land Title Survey prepared by Dewberry & Davis and dated February 12, 1994.

(July 19, 1996, 110 Stat. 1416, Pub. L. 104-163, § 2.)

**Prior Codifications.** — 1981 Ed., § 9-901.

**Emergency legislation.** — For temporary (90 day) addition of §§ 10-1503 to 10-1505, see § 2(a) to (c) of Draft Master Plan for Public

Reservation 13 Emergency Amendment Act of 2003 (D.C. Act 15-13, January 27, 2003, 50 DCR 1488).

**§ 10-1402. Property transfer.**

(a) *Transfer of title.* — In order to facilitate the construction, development, and operation of National Children's Island, the Secretary shall, not later than six months after July 19, 1996 and subject to this subchapter, transfer by quitclaim deed, without consideration, to the District all right, title, and interest of the United States in and to the Islands. Unbudgeted actual costs incurred by the Secretary for such transfer shall be borne by the District. The District may seek reimbursement from any third party for such costs.

(b) *Grant of easements.* — (1) The Secretary shall, not later than six months after July 19, 1996, grant, without consideration, to the District, permanent easements across the waterways and bed of the Anacostia River as described in the Survey as Leased Riverbed Areas A, B, C, and D, and across the shoreline of the Anacostia River as depicted on the plat map recorded in the Office of the Surveyor of the District as S.O. 92-252.

(2) Easements granted under paragraph (1) of this subsection shall run with the land and shall be for the purposes of:

(A) Constructing, reconstructing, maintaining, operating, and otherwise using only such bridges, roads, and other improvements as are necessary or desirable for vehicular and pedestrian egress and ingress to and from the Islands and which satisfy the District Building Code and applicable safety requirements;

(B) Installing, reinstalling, maintaining, and operating utility transmission corridors, including (but not limited to) all necessary electricity, water, sewer, gas, necessary or desirable for the construction, reconstruction, maintenance, and operation of the Islands and any and all improvements located thereon from time to time; and

(C) Constructing, reconstructing, maintaining, operating, and otherwise providing necessary informational kiosk, ticketing booth, and security for the Islands.

(3) Easements granted under paragraph (1) of this subsection shall be assignable by the District to any lessee, sublessee, or operator, or any combination thereof, of the Islands.

(c) *Development.* — The development of National Children's Island shall proceed as specified in paragraph 3 of the legend on the plat or as otherwise authorized by the District by agreement, lease, resolution, appropriate executive action, or otherwise.

(d) *Reversion.* —

(1) Title in the property transferred under subsection (a) and the easements granted under subsection (b) shall revert to the United States upon the expiration of the 60-day period which begins on the date on which the Secretary provides written notice to the District that the Secretary has determined that the District is using any portion of the property for a use other than recreational, environmental, or educational purposes in accordance with National Children's Island, the Anacostia Waterfront Framework Plan, or the Comprehensive Plan. Such notice shall be made in accordance with Chapter 5 of Title 5, United States Code (relating to administrative procedures).

(2) The periods referred to in paragraph (1) of this subsection shall be extended during the pendency of any lawsuit which seeks to enjoin the development or operation of National Children's Island or the administrative process leading to such development or operation.

(3) Following any reconveyance or reversion to the National Park Service, any and all claims and judgments arising during the period the District holds title to the Islands, the playground, and premises shall remain the responsibility of the District, and such reconveyance or reversion shall extinguish any and all leases, rights or privileges to the Islands and the playground granted by the District.



(4) The District shall require any nongovernmental entity authorized to construct, develop, and operate National Children's Island to establish an escrow fund, post a surety bond, provide a letter of credit or otherwise provide such security for the benefit of the National Park Service, substantially equivalent to that specified in paragraph 11 of the legend on the plat, to serve as the sole source of funding for restoration of the recreation park to a condition suitable for National Park Service purposes (namely, the removal of all buildings and grading, seeding and landscaping of the recreation park) upon reversion of the property. If, on the date which is two years from the date of reversion of the property, the National Park Service has not commenced restoration or is not diligently proceeding with such restoration, any amount in the escrow fund shall be distributed to such nongovernmental entity.

(July 19, 1996, 110 Stat. 1416, Pub. L. 104-163, § 3; Dec. 22, 2010, 124 Stat. 3564, Pub. L. 111-328, § 2(b).)

**Prior Codifications.** — 1981 Ed., § 9-902.

**Effect of amendments.** — Pub. L. 111-328 rewrote subsec. (d)(1).

### § 10-1403. Provisions relating to lands transferred and easements granted.

(a) *Playground.* — Operation of the recreation park may only commence simultaneously with or subsequent to improvement and opening of a children's playground at National Children's Island that is available to the public free of charge. The playground shall only include those improvements traditionally or ordinarily included in a publicly maintained children's playground. Operation of the recreation park is at all times dependent on the continued maintenance of the children's playground.

(b) *Public parking.* — Public parking on the Islands is prohibited, except for handicapped parking, emergency and government vehicles, and parking related to constructing, and servicing National Children's Island.

(c) *Required approvals.* — Before construction commences, the final design plans for the recreation park and playground, and all related structures, including bridges and roads, are subject to the review and approval of the National Capital Planning Commission and of the District of Columbia in accordance with subchapter II of this chapter. The District of Columbia shall carry out its review of this project in full compliance with all applicable provisions of the National Environmental Policy Act of 1969.

(July 19, 1996, 110 Stat. 1416, Pub. L. 104-163, § 4.)

**Prior Codifications.** — 1981 Ed., § 9-903.

**References in text.** — The National Environmental Policy Act of 1969, referred to in subsection (c) of this section, is the Act of

January 1, 1970, 83 Stat. 852, Pub. L. 91-190 which is codified at 42 U.S.C. § 4321, 4331 et seq., and 4341 et seq.

**§ 10-1404. Effect of property transfer.**

(a) *Effect of property transfer.* — Upon the transfer of the Islands to the District pursuant to this subchapter:

(1) The Transfer of Jurisdiction concerning the Islands from the National Park Service to the District dated February 1993, as set out on the plat map recorded in the Office of the Surveyor of the District as S.O. 92-252 and as approved by the Council of the District by Resolution 10-91, shall become null and void and of no further force and effect, except for the references in this subchapter to paragraphs 3 and 11 of the legend on the plat.

(2) The Islands shall no longer be considered to be part of Anacostia Park and shall not be considered to be within the park system of the District; therefore, the provisions of § 10-104, shall not apply to the Islands, and the District shall have exclusive charge and control over the Islands and easements transferred.

(3) The Islands shall cease to be a reservation, park, or public grounds of the United States for the purposes of § 10-128.

(b) *Use of certain lands for parking and other purposes.* — Notwithstanding any other provision of law, the District is hereby authorized to grant via appropriate instrument to a nongovernmental individual or entity any and all of its rights to use the lands currently being leased by the United States to the District pursuant to subchapter II of Chapter 3 of Title 3, for parking facilities (and necessary informational kiosk, ticketing booth, and security) as the Mayor of the District in his discretion may determine necessary or appropriate in connection with or in support of National Children's Island.

(July 19, 1996, 110 Stat. 1419, Pub. L. 104-163, § 5.)

**Prior Codifications.** — 1981 Ed., § 9-904, referred to in (a)(1), was published August 6, 1993, at 40 DCR 5514.  
**References in text.** — Resolution 10-91,

**§ 10-1405. Savings provisions.**

No provision of this subchapter shall be construed:

(1) As an express or implied endorsement or approval by the Congress of any such construction, development, or operation of National Children's Island;

(2) Except as provided in § 10-1404, to exempt the recreational park and playground from the laws of the United States or the District, including laws relating to the environment, health, and safety; or

(3) To prevent additional conditions on the National Children's Island development or operation to mitigate adverse impacts on adjacent residential neighborhoods and park lands and the Anacostia River.

(July 19, 1996, 110 Stat. 1420, Pub. L. 104-163, § 6.)

**§ 10-1406. Comprehensive and Anacostia Waterfront Framework Plans.**

(a) *Compliance with plans.* — Notwithstanding any other provision of this

chapter, it is not a violation of the terms and conditions of this chapter for the District of Columbia to use the lands conveyed and the easements granted under this chapter for recreational, environmental, or educational purposes in accordance with the Anacostia Waterfront Framework Plan and the Comprehensive Plan.

(b) *Definitions.* — For purposes of this section, the following definitions apply:

(1) *Anacostia Waterfront Framework Plan.* — The term “Anacostia Waterfront Framework Plan” means the November 2003 Anacostia Waterfront Framework Plan to redevelop and revitalize the Anacostia waterfront in the District of Columbia, as may be amended from time to time, developed pursuant to a memorandum of understanding dated March 22, 2000, between the General Services Administration, Government of the District of Columbia, Office of Management and Budget, Naval District Washington, Military District Washington, Marine Barracks Washington, Department of Labor, Department of Transportation, National Park Service, Army Corps of Engineers, Environmental Protection Agency, Washington Metropolitan Area Transit Authority, National Capital Planning Commission, National Arboretum, and Small Business Administration.

(2) *Comprehensive Plan.* — The term “Comprehensive Plan” means the Comprehensive Plan of the District of Columbia approved by the Council of the District of Columbia on December 28, 2006, as such plan may be amended or superseded from time to time.

(July 19, 1996, 110 Stat. 1420, Pub. L. 104-163, § 7, as added Dec. 22, 2010, 124 Stat. 3564, Pub. L. 111-328, § 2(a).)

## *Subchapter II. Children's Island Development Plan.*

### **§ 10-1431. Submission of development plan.**

(a) The development plan for property know as Heritage Island and a portion of Kingman Island (“Children’s Island”) in the Anacostia River in Ward 6, as shown on the plat filed in the Office of the Survey of the District of Columbia under S.O. 92-252, accompanied by a proposed resolution to approve the development plan, shall be submitted by the Mayor to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess.

(b) If the Council does not approve or disapprove the development plan by resolution within this 45-day review period, the development plan shall be deemed approved by the Council.

(c) The requirements of this section shall be in addition to all other requirements for approvals, permits, and procedures which are necessary to allow the development of Children’s Island.

(Nov. 20, 1993, D.C. Law 10-57, § 2, 40 DCR 7227.)



**§ 10-1432. Development plan defined.**

For purposes of this subchapter, the term “development plan” shall include, but not be limited to:

(1) A schematic layout of design elements, including a site plan, textual description, and illustrative rendering of the location, size, materials, and functions of all structures, buildings, roads, bridges, pathways, paved surfaces, landscaping, parking facilities, and utilities;

(2) An environmental impact statement;

(3) A traffic and transportation analysis, including any impact of traffic on the adjacent communities and the programs or measures to mitigate such impact;

(4) A circulation and sizing analysis;

(5) Applicable engineering studies;

(6) An operational planning analysis;

(7) A description of the programs, activities, facilities, goods, and services to be offered to the public, including the estimated costs of admission;

(8) An updated analysis of costs and benefits to the District government, the public, and the developer;

(9) The estimated annual numbers of construction, seasonal, and permanent jobs to be generated, including the percentage to be filled by District residents;

(10) The estimated annual numbers and dollar amounts of vending and contractual services to be generated by construction and operations, including the percentage to be set aside for District and minority entities;

(11) The estimated timetable and total cost of constructing and operating the project, including a financing plan;

(12) All documentation or material included within the submission by the Mayor or the developer to the National Capital Planning Commission and the Commission on Fine Arts as part of their respective reviews of the proposal for Children’s Island; and

(13) Any other information requested by the Council of the District of Columbia to facilitate its review of proposed development of Children’s Island.

(Nov. 20, 1993, D.C. Law 10-57, § 3, 40 DCR 7227.)

## CHAPTER 15. RESERVATION 13.

Sec. 10-1501. Approval of Draft Master Plan.	Sec. 10-1504. Establishment of special taxing district.
10-1502. Health care facility; acreage set aside, development.	10-1505. Allocation of R13BA property sales and lease proceeds.
10-1503. Establishment of Reservation 13 Benefit Area.	

## § 10-1501. Approval of Draft Master Plan.

Pursuant to the District of Columbia Appropriations Act, 2002 (Public Law 107-96), the Mayor transmitted to the Council a Draft Master Plan for Public Reservation 13, dated March 31, 2002. Public Law 107-96 provides that the Mayor shall present to the Council for its approval a plan for the development of Reservation 13. The Draft Master Plan for Public Reservation 13, dated March 31, 2002, is hereby approved.

(Apr. 11, 2003, D.C. Law 14-300, § 2, 50 DCR 406.)

**Cross references.** — For tax exemption of property, see § 47-1055.

**Legislative history of Law 14-300.** — Law 14-300, the “Draft Master Plan for Public Reservation 13 Approval Act of 2002”, was introduced in Council and assigned Bill No. 14-648, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on November 7, 2002, and December

3, 2002, respectively. Signed by the Mayor on January 7, 2003, it was assigned Act No. 14-576 and transmitted to both Houses of Congress for its review. D.C. Law 14-300 became effective on April 11, 2003.

**Exchange of title over Reservation 13.** — For the exchange of title over Reservation 13, see Public Law 109-396, 120 Stat. 2711.

## § 10-1502. Health care facility; acreage set aside, development.

(a) Approximately 2 acres within Reservation 13 shall be set aside for the development of a new health care facility, which may include emergency care services, primary and specialty care physician offices, ambulatory surgery, diagnostic imaging, laboratories, or health education. Upon completion of the development of the health care facility, any excess land set aside for the facility shall be available for development.

(b)(1) The Mayor is authorized to issue a request for proposals for the development of a health care facility on the acreage set aside and to enter into any contract or agreement necessary to enable the construction and operation of the facility.

(2) Interested bidders shall be allowed to submit proposals for both constructing and operating the health care facility.

(Apr. 11, 2003, D.C. Law 14-300, § 3, 50 DCR 406; Mar. 14, 2007, D.C. Law 16-288, § 201, 54 DCR 976.)

**Effect of amendments.** — D.C. Law 16-288, rewrote this section, which formerly read: “Approximately 2 acres within the Independence Avenue District of Reservation 13 shall be set aside for the development of a new

full-service hospital, including approximately 200 beds, an emergency department with level 1 trauma care, general pediatric care, behavioral health services including substance abuse and mental health, long-term or transitional

care capability, outpatient diagnostic and ambulatory care, and specialty clinic services.”

**Temporary Addition of Section.** — For temporary (225 day) addition, see §§ 2, 3 of National Capital Medical Center Negotiation Temporary Act of 2003 (D.C. Law 15-96, March 10, 2004, law notification 51 DCR 3616).

**Emergency legislation.** — For temporary (90 day) addition, see §§ 2 and 3 of National Capital Medical Center Negotiation Emergency Act of 2003 (D.C. Act 15-229, November 25, 2003, 50 DCR 10720).

**Legislative history of Law 14-300.** — For Law 14-300, see notes following § 10-1501.

**Legislative history of Law 15-178.** — Law 15-178, the “National Capital Medical Center Memorandum of Understanding Approval Act of 2004”, was introduced in Council and assigned Bill No. 15-680, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 6, 2004, and May 4, 2004, respectively. Signed by the Mayor on May 21, 2004, it was assigned Act No. 15-428 and transmitted to both Houses of Congress for its review. D.C. Law 15-178 became effective on September 8, 2004.

**Legislative history of Law 16-288.** — Law 16-288, the “Community Access to Health Care Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-913, which was referred to Committee on Human Services. The Bill was adopted on first and second read-

ings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-647 and transmitted to both Houses of Congress for its review. D.C. Law 16-288 became effective on March 14, 2007.

**Editor’s notes.** — Sections 2 and 3 of D.C. Law 15-178 provided:

“Sec. 2. (a) Pursuant to the National Capital Medical Center Negotiation Emergency Act of 2003, effective November 25, 2003 (D.C. Act 15-229; 50 DCR 10720), the Mayor transmitted to the Council a proposed memorandum of understanding between the District of Columbia government and Howard University, dated January 15, 2004, for Council approval.

“(b) The Council hereby approves the memorandum of understanding between the District of Columbia government and Howard University, dated January 15, 2004.

“Sec. 3. The Mayor shall submit by proposed resolution to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess, which review period shall begin on the 1st day following its receipt by the Office of the Secretary, the final plan (‘plan’) to finance, construct, manage, and operate the National Capital Medical Center. If the Council does not approve or disapprove the proposed resolution within the 45-day review period, the proposed resolution, and thereby the plan, shall be deemed disapproved.”

## § 10-1503. Establishment of Reservation 13 Benefit Area.

(a) There is established a Reservation 13 Benefit Area (“R13BA”), which shall be comprised of the 67 acres of land historically know as Reservation 13.

(b) Repealed.

(c) Repealed.

(Apr. 11, 2003, D.C. Law 14-300, § 4, 50 DCR 406; Feb. 6, 2004, D.C. Law 15-69, § 2(a), 50 DCR 9824; Apr. 13, 2005, D.C. Law 15-354, § 89(a), 52 DCR 2638.)

**Effect of amendments.** — D.C. Law 15-69 deleted the subsection (a) designation; and repealed subsecs. (b) and (c) which had read as follows:

D.C. Law 15-354, in subsecs. (b) and (c), validated previously made technical corrections.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(a) of Draft Master Plan for Public Reservation 13 Temporary Amendment Act of 2003 (D.C. Law 15-3, May 3, 2003, law notification 50 DCR 3783).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a) of Draft Master Plan for Public Reservation 13

Emergency Amendment Act of 2003 (D.C. Act 15-13, January 27, 2003, 50 DCR 1488).

For temporary (90 day) amendment of section, see § 2(a) of Draft Master Plan for Public Reservation 13 Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-273, December 18, 2003, 51 DCR 40).

**Legislative history of Law 14-300.** — For Law 14-300, see notes following § 10-1501.

**Legislative history of Law 15-69.** — Law 15-69, the “Draft Master Plan For Public Reservation 13 Amendment Act of 2003”, was introduced in Council and assigned Bill No. 15-24, which was referred to Committee of the Whole. The Bill was adopted on first and second readings on July 8, 2003, and October 7, 2003,



respectively. Signed by the Mayor on October 24, 2003, it was assigned Act No. 15-198 and transmitted to both Houses of Congress for its review. D.C. Law 15-69 became effective on February 6, 2004.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 10-801.

## § 10-1504. Establishment of special taxing district.

(a) The R13BA shall be a special taxing district.

(b) All sales tax revenues generated from commercial enterprises within the R13BA, all taxes on any real property, except for the real property special tax set aside to pay debt service on general obligation bonds issued by the District of Columbia, and all payments made in lieu of taxes on any real property, which is exempt or immune from real property taxation that is leased, loaned, or otherwise made available to any person in connection with a commercial enterprise or as a residence in an amount equivalent to the tax that would be lawfully assessed if the real property were not exempt or immune from real property taxation, that are collected within the R13BA shall be applied in the following order:

(1) To fund infrastructure improvements related to a proposed development; or

(2) To be deposited in the Tobacco Settlement Trust Fund, established by subchapter II of Chapter 18 of Title 7 ("Fund") into a dedicated R13BA Health Care account to be used for the purpose of providing health care to the uninsured residents of the District.

(c) Repealed.

(Apr. 11, 2003, D.C. Law 14-300, § 5, 50 DCR 406; Feb. 6, 2004, D.C. Law 15-69, § 2(b), 50 DCR 9824.)

**Effect of amendments.** — D.C. Law 15-69 rewrote subsec. (b); and repealed subsec. (c).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(b) of Draft Master Plan for Public Reservation 13 Temporary Amendment Act of 2003 (D.C. Law 15-3, May 3, 2003, law notification 50 DCR 3783).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(b) of Draft Master Plan for Public Reservation 13

Emergency Amendment Act of 2003 (D.C. Act 15-13, January 27, 2003, 50 DCR 1488).

For temporary (90 day) amendment of section, see § 2(b) of Draft Master Plan for Public Reservation 13 Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-273, December 18, 2003, 51 DCR 40).

**Legislative history of Law 14-300.** — For Law 14-300, see notes following § 10-1501.

**Legislative history of Law 15-69.** — For Law 15-69, see notes following § 10-1503.

## § 10-1505. Allocation of R13BA property sales and lease proceeds.

The proceeds from the lease or sale of any property in the R13BA, which includes all structures of a permanent character erected on or affixed to, any natural resources located on or under, all riparian rights attached to, or any air space located above or below the property or any street or alley, owned, controlled, or administered by the District, shall be applied in the following order:

(1) To fund infrastructure improvements related to a proposed development; or

(2) To be deposited in the Fund into a dedicated R13BA Health Care account to be used for the purpose of providing health care to the uninsured residents of the District.

(Apr. 11, 2003, D.C. Law 14-300, § 6, 50 DCR 406; Feb. 6, 2004, D.C. Law 15-69, § 2(c), 50 DCR 9824.)

**Effect of amendments.** — D.C. Law 15-69 rewrote the section.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(c) of Draft Master Plan for Public Reservation 13 Temporary Amendment Act of 2003 (D.C. Law 15-3, May 3, 2003, law notification 50 DCR 3783).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(c) of Draft Master Plan for Public Reservation 13 Emergency Amendment Act of 2003 (D.C. Act 15-13, January 27, 2003, 50 DCR 1488).

For temporary (90 day) amendment of section, see § 2(c) of Draft Master Plan for Public Reservation 13 Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-273, December 18, 2003, 51 DCR 40).

**Legislative history of Law 14-300.** — For Law 14-300, see notes following § 10-1501.

**Legislative history of Law 15-3.** — For Law 15-3, see notes following § 10-1503.

**Legislative history of Law 15-69.** — For Law 15-69, see notes following § 10-1503.

# CHAPTER 16. BALLPARK DEVELOPMENT.

## *Subchapter I. Construction of Ballpark*

## PART B

### PART A

### Ballpark Construction Hard and Soft Costs Cap

#### General

Sec.		Sec.	
10-1601.01.	Findings.	10-1601.31.	Definitions.
10-1601.02.	Creation of Ballpark Revenue Fund.	10-1601.32.	Limitation on contribution of bond proceeds and expenditure of funds.
10-1601.03.	Bond issuance.	10-1601.33.	Payment in excess of expenditure limits.
10-1601.04.	Local, small, and disadvantaged business enterprises, First Source employment, and apprentice requirements.	10-1601.34.	Development rights.
10-1601.05.	Ballpark development and construction.	<i>Subchapter II. Community Benefit Fund Associated with Ballpark</i>	
10-1601.06.	Requirement to invite and evaluate private financing.	10-1602.01.	Findings.
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## *Subchapter I. Construction of Ballpark.*

### PART A.

#### GENERAL.

## § 10-1601.01. Findings.

The Council finds that:

(1) The ownership, construction, development, or renovation of a publicly financed stadium in the District of Columbia, after October 1, 2004, for use primarily for professional athletic team events is a municipal use that is in the interest of, and for the benefit of, the citizens of the District of Columbia because such a publicly-owned stadium or arena will contribute to the social and economic well-being of the citizens of the District of Columbia and significantly enhance the economic development and employment opportunities within the District of Columbia.

(2) To further that interest, it is appropriate for the District of Columbia to pay all or a portion of the cost of constructing, developing, or renovating a stadium and, to that end, to impose a ballpark fee based upon the gross receipts of certain persons doing business within the District of Columbia; to impose a tax on the sales of tickets, or rights to admission, to certain events at the stadium; to impose a tax on sales of personal property and certain services at the stadium and to utilize the revenues derived from such fees and taxes to pay all or a portion of the cost of development, construction, or renovation of the stadium or the debt service on bonds or other evidence of indebtedness issued to finance all or a portion of the cost of the development, construction,



or renovation of the stadium; to acquire real property in furtherance of these public purposes; to lease the stadium to one or more professional baseball clubs; and for the District of Columbia and any duly designated District government agency or instrumentality to enter into binding and enforceable contracts to further these purposes.

(Apr. 8, 2005, D.C. Law 15-320, § 101, 52 DCR 1757.)

**Legislative history of Law 15-320.** — Law 15-320, the “Ballpark Omnibus Financing and Revenue Act of 2004”, was introduced in Council and assigned Bill No. 15-1028, which was referred to the Committee of Finance and Revenue. The Bill was adopted on first and second readings on November 30, 2004, and December 21, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-717 and transmitted to both Houses of Congress for its review. D.C. Law 15-320 became effective on April 8, 2005.

**Delegation of Authority.** — Delegation of Authority Pursuant to the Ballpark Omnibus Financing and Revenue Act of 2004, D.C. Law 15-320, effective April 8, 2005, see Mayor’s Order 2005-120, August 19, 2005, (52 DCR 8662).

Delegation of Authority for Acquisition of Real Property for Baseball Stadium, see Mayor’s Order 2005-130, September 20, 2005 (53 DCR 144).

## § 10-1601.02. Creation of Ballpark Revenue Fund.

(a) For purposes of this section, the term “ballpark” shall have the meaning specified in § 47-2002.05(a)(1).

(b) There is established within the General Fund of the District of Columbia, a segregated, nonlapsing special revenue fund to be denominated as the Ballpark Revenue Fund. Except as provided in § 10-1203.07, the Chief Financial Officer of the District of Columbia shall pay into the Ballpark Revenue Fund all receipts from those fees and taxes specifically identified by any provision of District of Columbia law to be paid into the fund and any rent paid pursuant to a lease of the ballpark. The Chief Financial Officer of the District of Columbia shall create a sub-account within the Ballpark Revenue Fund for each type of fee and tax that is to be paid into the fund and shall allocate the receipts from each type of fee and tax to the appropriate sub-account. The Mayor, or any District government agency or instrumentality that has been designated by the Mayor, may pledge and create a security interest in the funds in the Ballpark Revenue Fund, or any sub-account or sub-accounts within the fund, for the payment of the costs of carrying out any of the purposes set forth in subsection (c) of this section, for the payment of the debt service on any bonds or other evidence of indebtedness, any fees and charges incurred in connection therewith, any payments owing under any document or instrument entered into in connection with the indebtedness, including any credit enhancement agreement, insurance policy, security agreement, or other agreement or instrument establishing a swap or other derivative arrangement entered into by the District or any District government agency or instrumentality, and any of the purposes set forth in subsection (c) of this section, without further action as permitted by § 1-204.90(f). If bonds or other evidence of indebtedness are issued, the payment shall be made in accordance with the provisions of the documents entered into by the District or any District agency or instrumentality in connection with the issuance of the

bonds or other evidence of indebtedness. Notwithstanding Article 9 of Subtitle I of Title 28, or any other provision to the contrary, any security interest created pursuant to this subsection shall be valid, binding, and perfected from the time that the security interest is created, with or without the physical delivery of any funds or any other property, with or without further action, and whether or not any statement, document, or instrument relating to the security interest is recorded or filed. The lien created by the security interest shall be valid, binding, and perfected with respect to any person, as defined in § 47-2001(i), having claims against the District, whether or not such person has notice of the lien.

(c) The purposes for which the funds deposited in the Ballpark Revenue Fund shall be used are as follows:

(1) To directly pay, or to finance the reimbursement of, any fund of the General Fund of the District of Columbia which has been the source of the payment of any loan, reprogramming, or transfer of funds to any District government agency or instrumentality for the payment of any reasonable and verified predevelopment and development costs that have been borne by the District or the District government agency or instrumentality for the ballpark;

(2) To directly pay, or to finance the reimbursement of the District or any District government agency or instrumentality for, any and all reasonable and verified predevelopment and development costs that were borne by the District or the District government agency or instrumentality for the ballpark;

(3) To directly pay, or to finance the reimbursement of, the District or any District government agency or instrumentality for any or all costs arising out of or relating to the acquisition of real property, by purchase, lease, or condemnation in accordance with §§ 16-1311 through 16-1321, or other means of acquiring or assembling real property or interests in real property, including rights-of-way or other easements, that will serve as the site for the ballpark or are otherwise necessary to facilitate the construction of the ballpark or use of the site for the ballpark;

(4) To directly pay or finance all or any of the costs of the demolition of buildings located on the future site of the ballpark and the cost of environmental remediation of the land that is the future site of the ballpark;

(5) To directly pay or finance all or any of the costs of the design, development, construction, improvement, furnishing, and equipping of the ballpark;

(6) To directly pay or finance all or any of the costs of renovating Robert F. Kennedy Stadium for use as a ballpark until construction of the new ballpark has been completed;

(7) To directly pay or finance all or any of the costs of any future renovations, improvements, maintenance, or upgrades to Robert F. Kennedy Stadium or the new ballpark after its construction has been completed;

(8) To directly pay or finance all or any other costs of the District or any District government agency associated with the financing, development, construction, or renovation of the ballpark;

(9) To pay debt service on bonds issued in accordance with this part, which debt service includes funding any required reserves on, and making any other payments related to, the bonds; and



(10) Subject to the provisions of the financing documents, for such purposes as may otherwise be authorized by law.

(d) To the extent that it does not violate the terms of any financing documents, closing documents, lien, pledge, security interest, or other covenants (collectively, “financing documents”) under which the bonds or other evidence of indebtedness described in this section (“bonds”) were issued, and, after accounting for transfers authorized to the General Fund of the District of Columbia under current law, if, at the end of a fiscal year the balance of cash and investments in the Ballpark Revenue Fund exceeds the balance of current liabilities, including debt service, required reserves, fund transfers previously authorized to balance the Fiscal Year 2011 budget and Fiscal Years 2012 through 2014 financial plan, and required sinking fund deposits under the bonds or financing documents required to be paid from the funds in the Ballpark Revenue Fund, the excess shall be used to pay in advance of scheduled maturity any principal amount and accrued interest thereon due on the bonds.

(Apr. 8, 2005, D.C. Law 15-320, § 102, 52 DCR 1757; Nov. 30, 2005, D.C. Law 16-91, § 203(a), 52 DCR 10637; Apr. 8, 2011, D.C. Law 18-370, § 782(a), 58 DCR 1008.)

**Section references.** — This section is referenced in § 10-1601.03, § 10-1601.08, § 47-2002.05, § 47-2501, § 47-2761, and § 47-3902.

**Effect of amendments.** — D.C. Law 16-91, in subsec. (c)(8), deleted “and” at the end; in subsec. (c)(9) substituted “this subchapter, which debt service includes funding any required reserves on, and making any other payments related to, the bonds; and” for “this subchapter.”; and added subsec. (c)(10).

D.C. Law 18-370 added subsec. (d).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 782(a) of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 10-1601.01.

**Legislative history of Law 16-91.** — Law 16-91, the “Technical Amendments Act of 2005”, was introduced in Council and assigned Bill No. 16-477, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 1, 2005, and November 15, 2005, respectively. Signed by the Mayor on November 30, 2005, it was assigned Act No. 16-212 and transmitted to both Houses

of Congress for its review. Title II of D.C. Law 16-91 became effective on November 30, 2005, pursuant to Pub. L. 109-115, Div. B, § 136.

**Legislative history of Law 18-370.** — Law 18-370, the “Fiscal Year 2011 Supplemental Budget Support Act of 2010”, was introduced in Council and assigned Bill No. 18-1100, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 27, 2011, it was assigned Act No. 18-721 and transmitted to both Houses of Congress for its review. D.C. Law 18-370 became effective on April 8, 2011.

**Short title.** — Short title: Section 781 of D.C. Law 18-370 provided that subtitle I of title VII of the act may be cited as “Ballpark Debt Repayment Amendment Act of 2010”.

**Effective date.** — Section 136 of Pub. L. 109-115, Nov. 30, 2005, 119 Stat. 2522, provided: “Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act, amendments to the Ballpark Technical Amendments Act of 2005 shall take effect on the date of the enactment by the District of Columbia [Nov. 30, 2005].”

## § 10-1601.03. Bond issuance.

(a) For the purposes of this section, the term:

(1) “Ballpark Revenue Fund” means the Ballpark Revenue Fund established by § 10-1601.02.

(2) “Bonds” means District of Columbia revenue bonds, notes, or other



obligations (including refunding bonds, notes, and other obligations) in one or more series, authorized to be issued pursuant to § 1-204.90 and this subchapter.

(3) "Home Rule Act" means Chapter 2 of Title 1.

(4) "Project" means:

(A) The financing, refinancing, or reimbursing of costs incurred in the site acquisition for, and the development, design, construction, improvement, furnishing, and equipping of, the ballpark as the term is defined in § 47-2002.05(a)(1);

(B) The funding of any required deposit to a debt service reserve fund or capitalized interest;

(C) The payment of certain costs of issuance, such as fees and premiums for any bond insurance or credit enhancement;

(D) The payment of any costs for which funds in the Ballpark Revenue Fund may be expended; and

(E) For which the aggregate expenditure of funds constituting the principal amount of bonds for the purposes set forth in subparagraphs (A) through (C) of this paragraph does not exceed \$534,800,000.

(b)(1) The Council authorizes the issuance by the Mayor of one or more series of bonds in a total amount not to exceed \$534,800,000 for payment of the costs of the project and to execute one or more declarations of intent pursuant to Treas. Reg. § 1.150-2 to reimburse the District for expenditures made prior to the issuance of the bonds.

(2) There is hereby allocated to the bonds the funds in the Ballpark Revenue Fund, or such portion of the funds as shall be determined in accordance with the terms of the bonds, for the payment of debt service on the bonds and the payment of such other costs as are permitted to be paid with funds from the Ballpark Revenue Fund.

(c)(1) The Mayor may take any action necessary or appropriate in accordance with this subchapter in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the bonds of each series, including determinations of:

(A) The final form, content, designation, and terms of the bonds, including a determination that the bonds may be issued in certificated or book entry form;

(B) The principal amount of the bonds to be issued and the denominations of the bonds;

(C) The rate or rates of interest on, and the method or methods of determining the rate or rates of interest on, the bonds;

(D) The date or dates of issuance, sale, and delivery of, the payment of interest on, and the maturity date or dates of, the bonds;

(E) Whether the bonds are to be sold at a competitive or negotiated sale and the terms and conditions of the sale;

(F) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called or put for redemption, repurchase, or remarketing before their respective stated maturities;

(G) Provisions for the registration, transfer, and exchange of each series of the bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

(H) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds and the determination of the priority thereof;

(I) The time and place of payment of the bonds;

(J) Whether the bonds will be taxable, tax-exempt, or a combination thereof;

(K) Procedures for monitoring the use of the proceeds received from the sale of the bonds to ensure that they are properly applied to the project and used to accomplish the purposes of this subchapter;

(L) Actions necessary to qualify the bonds under the blue sky laws of any jurisdiction where the bonds are marketed; and

(M) The terms and types of credit enhancement under which the bonds may be secured.

(2) The bonds shall contain a legend, which shall provide that the bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District (other than the payments from the Ballpark Revenue Fund or any other security authorized by this subchapter), do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited by § 1-206.02(a)(2).

(3) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor. The Mayor's execution and delivery of the bonds shall constitute conclusive evidence of the Mayor's approval on behalf of the District of the final form and content of the bonds.

(4) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds.

(5) The bonds may be issued at any time or from time to time in one or more issues and one or more series and may be sold at public or private sale. A series of bonds may be secured by a trust agreement or trust indenture between the District and a corporate trustee having trust powers, and may be secured by a loan agreement or other instrument or instruments by means of which the District may:

(A) Make and enter into any and all covenants and agreements with the trustee or the holders of the bonds that the District may determine to be necessary or desirable relating to:

(i) The application, investment, deposit, use, and disposition of the proceeds of bonds and the other funds, securities, and property of the District;

(ii) The assignment by the District of its rights in any agreement;

(iii) The terms and conditions upon which additional bonds of the District may be issued;

(iv) The appointment of a trustee to act on behalf of bondholders and abrogating or limiting the rights of the bondholders to appoint a trustee; and

(v) The vesting in a trustee for the benefit of the holders of bonds, or in the bondholders directly, such rights and remedies as the District shall determine to be necessary or desirable;

(B) Pledge, mortgage or assign monies, agreements, property or other assets of the District, either in hand or to be received in the future, or both;



(C) Provide for bond insurance, letters of credit, interest rate swaps, or other financial derivative products or otherwise enhance the credit of and security for the payment of the bonds or reduce or otherwise manage the interest costs of the bonds and provide security therefor; and

(D) Provide for any other matters of like or different character that in any way affects the security for or payment on the bonds.

(d) The bonds are declared to be issued for essential public and governmental purposes. The bonds, the interest thereon, the income therefrom, and all monies pledged or available to pay or secure the payment of the bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

(e) The District hereby pledges and covenants and agrees with the holders of the bonds that, subject to the provisions of the financing documents, the District will not limit or alter the revenues pledged to secure the bonds or the basis on which the revenues are collected or allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the bonds, will not in any way impair the rights or remedies of the holders of the bonds, and will not modify in any way, with respect to the bonds, the exemptions from taxation provided for in this subchapter, until the bonds, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the bonds. This subsection shall constitute a contract between the District and the holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict with this subchapter, this subchapter shall be controlling.

(f) Consistent with § 1-204.90(a)(4)(B), and notwithstanding Article 9 of Subtitle I of Title 28:

(1) A pledge made and security interest created in respect of the bonds or pursuant to any related financing document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

(2) The lien of the pledge shall be valid, binding and perfected as against all parties having any claim of any kind in tort, contract or otherwise against the District, whether or not the party has notice; and

(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.

(g) If there shall be a default in the payment of the principal of, or interest on, any bonds of a series after the principal or interest shall become due and payable, whether at maturity or upon call for redemption, or if the District shall fail or refuse to carry out and perform the terms of any agreement with the holders of any of the bonds, the holders of the bonds, or the trustee appointed to act on behalf of the holder of the bonds, may, subject to the provisions of the financing documents, do the following:



(1) By action, writ, or other proceeding, enforce all rights of the holders of the bonds, including the right to require the District to carry out and perform the terms of any agreement with the holders of the bonds or its duties under this subchapter;

(2) By action, require the District to account as if it were the trustee of an express trust;

(3) By action, petition to enjoin any acts or things that may be unlawful or in violation of the rights of the holders of the bonds; and

(4) Declare all the bonds to be due and payable, whether or not in advance of or at maturity and, if all defaults be made good, annul the declaration and its consequences.

(h)(1) The members of the Council, the Mayor, or any person executing any of the bonds shall not be personally liable on the bonds by reason of their issuance.

(2) Notwithstanding any other provision of this subchapter, the bonds shall not be general obligations of the District and shall not be a debt or liability of the District within the meaning of any debt or other limit prescribed by law. The faith and credit or the general taxing power of the District (other than funds in the Ballpark Revenue Fund or any other security authorized by this subchapter) shall not be pledged to secure the payment of the bonds.

(i) The Mayor shall select the underwriter for the bonds through a request for proposals and recommend to the underwriter a counsel that shall serve as counsel to the underwriter regarding the issuance of bonds. The bonds shall be sold to the underwriter through a negotiated process.

(Apr. 8, 2005, D.C. Law 15-320, § 103, 52 DCR 1757; Nov. 30, 2005, D.C. Law 16-91, § 203(b), 52 DCR 10637.)

**Section references.** — This section is referenced in § 10-1601.06, § 10-1601.31, and § 47-2761.

**Effect of amendments.** — D.C. Law 16-91, in subpar. (a)(4)(E), substituted “of funds constituting the principal amount of bonds” for “of bonds”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 6 of Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Temporary Act of 2006 (D.C. Law 16-115, June 9, 2006, law notification 53 DCR 5353).

For temporary (225 day) amendment of section, see § 7 of Ballpark Hard and Soft Costs Cap Temporary Act of 2007 (D.C. Law 17-1, April 18, 2007, law notification 54 DCR 6580).

**Emergency legislation.** — For temporary (90 day) amendment of section, see §§ 3 and 6 of Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Emergency Act of 2006 (D.C. Act 16-277, February 14, 2006, 53 DCR 1341).

For temporary (90 day) amendment of section, see § 6 of Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Congressional Review Emergency Act of 2006 (D.C. Act 16-378, May 19, 2006, 53 DCR 4399).

For temporary (90 day) amendment of section, see § 7 of Ballpark Hard and Soft Costs Cap Emergency Act of 2007 (D.C. Act 17-11, January 26, 2007, 54 DCR 1514).

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 10-1601.01.

**Legislative history of Law 16-91.** — For Law 16-91, see notes following § 10-1601.02.

**Effective date.** — Section 136 of Pub. L. 109-115, Nov. 30, 2005, 119 Stat. 2522, provided: “Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act, amendments to the Ballpark Technical Amendments Act of 2005 shall take effect on the date of the enactment by the District of Columbia [Nov. 30, 2005].”

**§ 10-1601.04. Local, small, and disadvantaged business enterprises, First Source employment, and apprenticeship requirements.**

(a) For purposes of this section, the term “ballpark” shall have the meaning specified in § 47-2002.05(a)(1).

(b) Notwithstanding any other provision of law, the Mayor shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the District or any agency or instrumentality of the District with respect to the ballpark shall comply with the requirements of subchapter IX-A of Chapter 2 of Title 2 [repealed].

(c) The Mayor shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the District or any agency or instrumentality of the District with respect to each major phase of the development and construction of the ballpark, including contracts for architectural, engineering, and construction services, shall provide that at least 50% of the work in the aggregate under such contracts shall be awarded to local business enterprises, local small business enterprises, or local disadvantaged business enterprises, as such terms are defined in § 2-218.02; provided, that of the percentage of the work required by this section to be awarded to local business enterprises, local small business enterprises, or local disadvantaged business enterprises, 35% of the work shall be awarded to local small business enterprises or local disadvantaged business enterprises, as such terms are defined in § 2-218.02; provided further, that if the 35% requirement is unattainable, the Mayor shall report this to the Council for reconsideration. Of the percentage of the work required by this section to be awarded to local small business enterprises or local disadvantaged business enterprises, not less than 20% of the work shall be awarded to local disadvantaged business enterprises.

(d) Notwithstanding any other provision of law, the Mayor shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the District or any agency or instrumentality of the District with respect to the development and construction of the ballpark shall comply with First Source Employment requirements of subchapter X of Chapter 2 of Title 2 [§ 2-219.01 et seq.].

(e)(1) Notwithstanding any other provision of law, the Mayor shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the District or any agency or instrumentality of the District with respect to the development and construction of the ballpark shall comply with the requirements of subchapter I of Chapter 14 of Title 32 [§ 32-1401 et seq.].

(2)(A) Notwithstanding any other provision of law, 50% of all apprenticeship hours performed pursuant to apprenticeship programs related to the construction and operation of the ballpark shall be performed by District of Columbia residents.

(B) Any prime contractor or subcontractor that fails to make a good faith effort to comply with the requirements of this paragraph shall be subject to a monetary fine in the amount of 5% of the direct or indirect labor costs of



the contract. Fines shall be imposed by the Contracting Officer and remitted to the Department of Employment Services to be applied to job training programs, subject to appropriations by Congress.

(f) The Mayor shall encourage the owner of any professional baseball franchise that operates in the ballpark to enter into broadcast media rights agreements with broadcast media companies that are local business enterprises and disadvantaged business enterprises as such terms are defined in § 2-218.02.

(Apr. 8, 2005, D.C. Law 15-320, § 104, 52 DCR 1757; Mar. 2, 2007, D.C. Law 16-191, § 38, 53 DCR 6794.)

**Section references.** — This section is referenced in § 10-1601.06.

**Effect of amendments.** — D.C. Law 16-191, in subsec. (b), substituted “subchapter IX-A of Chapter 2 of Title 2” for “subchapter IX of Chapter 2 of Title 2”; and, in subsecs. (c) and (f), substituted “§ 2-218.02” for “§ 2-217.01”.

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 10-1601.01.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 10-801.

## § 10-1601.05. Ballpark development and construction.

(a) For the purposes of this section, the term:

(1) “Ballpark” means a baseball-specific stadium owned by the District and constructed on the ballpark site.

(2) “Ballpark site” means the site bounded by N Street, S.E., Potomac Avenue, S.E., South Capitol Street, S.E., and 1st Street, S.E., or such other site as determined in accordance with subsection (b)(2) of this section if this primary site shall be unavailable to be acquired by the Mayor.

(3) “Baseball Stadium Agreement” means the Baseball Stadium Agreement dated as of September 29, 2004 by and among the Government of the District of Columbia, the Sports and Entertainment Commission, and Baseball Expos, L.P., a Delaware limited partnership.

(4) “MLB Team” means the entity that owns the Major League Baseball franchise that will play its home games in the ballpark.

(b)(1) For purposes of this subsection, the term:

(A) “Ballpark” shall have the meaning specified in § 47-2002.05(a)(1)(A).

(B) “Baseball Stadium Agreement” shall have the meaning specified in subsection (a)(3) of this section.

(2) The Mayor, subject to such conditions as the Mayor shall determine, shall:

(A) Acquire and convey to the Anacostia Waterfront Corporation, for use by the Sports and Entertainment Commission to satisfy its responsibilities under this subchapter, all necessary real property, including rights-of-way or other easements, that shall be required to develop, construct, and complete a ballpark within the site bounded by N Street, S.E., Potomac Avenue, S.E., South Capitol Street, S.E., and 1st Street, S.E.; provided, that if this site shall be unavailable or infeasible for the timely completion of a ballpark on or prior to March 1, 2008 relying only on the funding authority provided in this



subchapter, any designated alternative site in the District of Columbia, including the site for Robert F. Kennedy Stadium, as defined in § 3-1402(4) [repealed], that the Mayor determines, subject to the approvals required in section 4.01 of the Baseball Stadium Agreement, will be available and feasible for the timely completion of a ballpark relying only on the funding authority provided in this subchapter; provided further, that if the designated alternative site is not within the Anacostia Waterfront, as that term is defined in subchapter XII of Chapter 12 of Title 2, the alternative site shall be conveyed directly to the Sports and Entertainment Commission; and

(B) Provide to the Sports and Entertainment Commission all funds from the Ballpark Revenue Fund or from the issuance of bonds secured by the Ballpark Revenue Fund as shall be required by the Sports and Entertainment Commission for the development, construction, completion, and leasing of the ballpark on the ballpark site in accordance with this section.

(3) The Mayor shall provide the Council with the following information associated with the ballpark:

(A) A copy of any term sheet, loan commitment, or any other material obligation executed by the District or any District government agency or instrumentality to finance the District government's costs associated with the development of the ballpark;

(B) A copy of each material contract executed by the District or any District government agency or instrumentality for goods or services associated with the development of the ballpark; and

(C) On or before July 1, 2005, and every 6 months thereafter, a semiannual report which provides an accounting and itemization of all financial obligations and expenditures of the District government and all revenues generated to the District government associated with the development of the ballpark.

(c) The Sports and Entertainment Commission shall develop and construct a ballpark on the ballpark site in accordance with the following requirements:

(1) The ballpark shall be a first-class, open air baseball stadium to be constructed on the ballpark site, having a natural grass playing field, a capacity of approximately 41,000 seats, and market-appropriate concession, entertainment, and retail areas, fixtures, furnishings, equipment, features, and amenities.

(2) The ballpark shall be designed to comply with all public safety, accessibility, and urban planning requirements generally applicable to buildings of such scale, purpose, and location in the District of Columbia.

(3)(A) The Sports and Entertainment Commission shall enter into a Construction Administration Agreement with the Mayor and the MLB Team. The Construction Administration Agreement shall require the Sports and Entertainment Commission, the Mayor, and the MLB Team to form a Project Coordination Team to perform the following functions:

(i) Make non-binding recommendations to the Sports and Entertainment Commission and the MLB Team with respect to the retention of various design, engineering, construction, consulting, and construction management firms that will assist in the development and construction of the ballpark;

(ii) Receive reports from such firms pertaining to schedule, budget and other aspects of the development and construction of the ballpark; and

(iii) Make or provide the consents, authorizations, approvals, decisions, and other actions expressly required of the Project Coordination Team, to the extent legally permitted, under the Construction Administration Agreement.

(B) The Construction Administration Agreement shall provide for periodic regular meetings of the Project Coordination Team and for special meetings upon reasonable prior notice. The Sports and Entertainment Commission and the Mayor together shall have one vote and the MLB Team shall have one vote on the Project Coordination Team, and each will have the right to appoint and replace its voting representative by written notice to the other party. The voting representative who represents the Sports and Entertainment Commission and the Mayor shall be chosen jointly by the Sports and Entertainment Commission and the Mayor. Each voting member of the Project Coordination Team may act on behalf of the party or parties it represents, and in connection with the development and construction of the ballpark, may sign documents, authorize action, and otherwise bind the party or parties that it represents in connection with matters properly before the Project Coordination Team. The Project Coordination Team shall take action only by unanimous vote of its voting members.

(4) The Sports and Entertainment Commission shall use a competitive procurement process in accordance with its procurement regulations to select and engage the design, engineering, construction, consulting, and construction management firms and shall require such firms to comply with subchapter X of Chapter 2 of Title 2 [§ 2-219.01 et seq.].

(5) The ballpark shall be designed and constructed in a manner to promote the minimization of:

(A) The life cycle cost and environmental impact of the facility and dependence on petroleum-based fuels by utilizing energy efficiency, water conservation, or solar or other renewable energy technologies; and

(B) Waste production, water pollution, and storm water runoff from the facility, taking into account applicable criteria in effect, on April 8, 2005, of the Leadership in Energy and Environmental Design Green Building Rating System for New Construction and Major Renovation, LEED-NC version 2.1, as defined by the U.S. Green Building Council.

(6) The Sports and Entertainment Commission shall comply with the expenditure limitations set forth in §§ 10-1601.32 and 10-1601.33. The Sports and Entertainment Commission shall submit a monthly report of expenditures to the Council no later than the 15th of each month.

(d) The Sports and Entertainment Commission shall lease the ballpark, on behalf of the District, to the MLB Team pursuant to a lease agreement that has an initial term of at least 30 consecutive years, plus 5 2-year renewal options, and that is otherwise in accordance with the terms of the Baseball Stadium Agreement.

(e)(1) The Sports and Entertainment Commission and the Anacostia Waterfront Corporation shall promptly enter into a memorandum of understanding



which shall address these agencies' shared responsibilities for developing the master urban site plan and exterior design guidelines for the ballpark and parcels adjacent to the ballpark site within the Anacostia Waterfront.

(2) Parts F and G of subchapter XII of Chapter 12 of Title 2 [§ 2-1223.21 et seq. and § 2-1223.23 et seq., both repealed], shall not apply to the ballpark or the Robert F. Kennedy Stadium.

(f) Except as provided in §§ 10-1601.32 and 10-1601.33, no funds in the General Fund of the District of Columbia shall be spent on the hard and soft costs (as the terms are defined in part B of this subchapter) for construction of the ballpark.

(g) References in this section to the Sports and Entertainment Commission shall be deemed to refer to the Washington Convention and Sports Authority, as successor to the Sports and Entertainment Commission, unless the context clearly indicates otherwise.

(Apr. 8, 2005, D.C. Law 15-320, § 105, 52 DCR 1757; Oct. 18, 2007, D.C. Law 17-22, § 6, 54 DCR 8006; Mar. 3, 2010, D.C. Law 18-111, § 2082(m)(1), 57 DCR 181.)

**Section references.** — This section is referenced in § 2-1217.12, § 10-1202.02, § 10-1601.06, § 10-1601.08, § 10-1601.31, and § 47-2002.05.

**Effect of amendments.** — D.C. Law 17-22 added subsecs. (c)(6) and (f).

D.C. Law 18-111 added subsec. (g).

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 5 of Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Temporary Act of 2006 (D.C. Law 16-115, June 9, 2006, law notification 53 DCR 5353).

For temporary (225 day) addition, see § 7 of Ballpark Hard and Soft Costs Cap Temporary Act of 2007 (D.C. Law 17-1, April 18, 2007, law notification 54 DCR 6580).

**Emergency legislation.** — For temporary (90 day) addition, see § 5 of Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Congressional Review Emergency Act of 2006 (D.C. Act 16-378, May 19, 2006, 53 DCR 4399).

For temporary (90 day) addition, see § 6 of Ballpark Hard and Soft Costs Cap Emergency Act of 2007 (D.C. Act 17-11, January 26, 2007, 54 DCR 1514).

For temporary (90 day) amendment of section, see § 2082(m)(1) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2082(m)(1) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 10-1601.01.

**Legislative history of Law 17-22.** — Law 17-22, the “Ballpark Hard and Soft Cost Cap Act of 2007”, was introduced in Council and assigned Bill No. 17-11 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on June 21, 2007, and July 10, 2007, respectively. Signed by the Mayor on July 27, 2007, it was assigned Act No. 17-84 and transmitted to both Houses of Congress for its review. D.C. Law 17-22 became effective on October 18, 2007.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

## § 10-1601.06. Requirement to invite and evaluate private financing.

(a) For purposes of this section, the term “ballpark” shall have the meaning specified in § 47-2002.05(a)(1)(A).

(b) There is hereby established the Baseball Financing Review Fund as a segregated, nonlapsing special revenue fund in the District separate and apart from the General Fund of the District of Columbia. All fees specifically



identified by subsection (c) of this section shall be deposited into the Baseball Financing Review Fund without regard to fiscal year limitation pursuant to an act of Congress. All fees deposited into the Baseball Financing Review Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, and shall be continually available to pay or reimburse the cost of services related to the evaluation and reporting of proposals as required by subsections (d) and (e) of this section, subject to authorization by Congress.

(c)(1) Within 30 days of April 8, 2005, the Chief Financial Officer shall cause to be published a notice that the District is seeking the submission of supplemental or alternative financing plans and proposals for the development and construction of the ballpark in accordance with §§ 10-1601.04 and 10-1601.05 that would provide for a meaningful and substantial reduction in:

(A) The minimum annual amount of ballpark fees required to be collected under § 47-2762; and

(B) The principal amount of bonds that the District would otherwise need to issue under §§ 10-1601.03 and 10-1601.05.

(2) Any party submitting a supplemental or alternative financing plan or proposal shall also submit a reasonable proposal fee, in an amount to be determined by the Chief Financial Officer, to defray the costs to the District of evaluating and reporting upon the supplemental or alternative financing plan or proposal. All proposal fees shall be deposited into the Baseball Financing Review Fund.

(d)(1) The Chief Financial Officer, in consultation with the Mayor and the Council, shall:

(A) Establish criteria for the requested supplemental or alternative financing plans and proposals, and include this criteria within the notice required by subsection (c) of this section; and

(B) Evaluate such proposals in accordance with the criteria.

(2) The criteria shall limit consideration to only bona fide supplemental or alternative financing plans and proposals that have been submitted by parties that:

(A) Are financially capable of performing the supplemental or alternative financing plan and proposal; and

(B) Substantially reduce the amount or duration of the proposed ballpark fee as set forth in § 47-2762.

(e)(1) Not later than March 15, 2005, and not less than 45 days prior to the issuance of bonds authorized by this subchapter, the Chief Financial Officer shall deliver a report to the Mayor and the Council, describing and evaluating all supplemental or alternative financing plans and proposals that were submitted in accordance with subsections (c) and (d) of this section.

(2) If the Chief Financial Officer finds that at least one supplemental or alternative financing plan or proposal meets the criteria established pursuant to subsection (c) and (d) of this section and certifies that at least 50% of the cost of constructing the ballpark can be financed privately, the Mayor, within 15 days of the submission of the report by the Chief Financial Officer, shall submit proposed legislation to the Council to replace part or all of the public financing

otherwise required by this subchapter and thereby substantially reduce the amount or duration of the proposed ballpark fee; provided, that the private financing legislation otherwise preserves the obligations and economics of the Baseball Stadium Agreement.

(f) This section shall not create any legal obligation or liability on the part of the District to any party who submits a supplemental or alternative financing plan or proposal pursuant to this section.

(Apr. 8, 2005, D.C. Law 15-320, § 106, 52 DCR 1757.)

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 10-1601.01.

### **§ 10-1601.07. Requirement to review costs and pursue alternative ballpark site.**

(a) For purposes of this section, the term “ballpark” shall have the meaning specified in § 47-2002.05(a)(1)(A).

(b) For the purposes of this section, land acquisition costs shall include the following:

(1) One separate appraisal of each parcel of land to be acquired, which shall be performed after April 8, 2005;

(2) An estimate of the environmental remediation costs; and

(3) Legal expenses associated with land acquisition.

(c) For purposes of this section, infrastructure costs shall include the following:

(1) The District Department of Transportation’s estimate for basic road and sidewalk improvements;

(2) The cost of expanding the Navy Yard Metro station to accommodate the additional usage anticipated by the stadium; and

(3) Water and sewer relocation costs.

(d) Prior to May 15, 2005, and prior to the date upon which the District enters into any obligation to acquire or purchase any property on a site bounded by N Street, S.E., Potomac Avenue, S.E., South Capitol Street, S.E., and 1st Street, S.E. (“primary ballpark site”), the Chief Financial Officer shall re-estimate the costs to the District for land acquisition and infrastructure and provide a report on this re-estimate to the Mayor and the Council.

(e) If the total amount of these re-estimated costs to the District exceeds \$165 million, the primary ballpark site shall be deemed financially unavailable by the District pursuant to this subchapter. Pursuant to this subchapter, the Mayor and the Sports and Entertainment Commission shall pursue replacement of the primary ballpark site with a substantially less costly site in the District, subject to the approval of Baseball Expos, L.P., or its assigns or successors, in accordance with the Baseball Stadium Agreement.

(Apr. 8, 2005, D.C. Law 15-320, § 107, 52 DCR 1757.)

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 10-1601.01.



CASE NOTES

**In general.**

Landowners in condemnation proceeding could not challenge good faith of District of Columbia chief financial officer's (CFO) estimate of costs to acquire land and build infrastructure for sports stadium; the council and mayor were sole judges of whether the estimate was made in bad faith, the council's satisfaction with the report was a legislative decision, and nothing in statute suggested court oversight to second-guess legislative judgment. *Robert Sie-*

*gel, Inc. v. District of Columbia*, 892 A.2d 387, 2006 D.C. App. LEXIS 33 (2006).

By asserting a private right of action under the Stadium Financing Act, landowners could not challenge District of Columbia chief financial officer's (CFO) estimate of costs to acquire land and build infrastructure for sports stadium. *Robert Siegel, Inc. v. District of Columbia*, 892 A.2d 387, 2006 D.C. App. LEXIS 33 (2006).

**§ 10-1601.08. Certain required provisions to be included in future agreements.**

(a) The Construction Administration Agreement, referenced in § 10-1601.05(c)(3), shall require a risk management program that minimizes the exposure of the Sports and Entertainment Commission and the District to cost overrun and late completion risk under section 8.04(c)(iii) of the Baseball Stadium Agreement, as defined in § 10-1601.05(a)(3), including, but not limited to provisions that:

(1) Require the team to share equally with the District or the Sports and Entertainment Commission the cost of a program that includes:

(A) A mutually selected insurance consultant engaged to advise on the procurement of construction period insurance and the cost effective allocation of late completion risk in the construction documents;

(B) Mutually approved construction period insurance carried pursuant to section 4.05 of the Baseball Stadium Agreement; and

(C) A mutually selected value engineering consultant engaged to advise the project coordination team on mitigation of cost overrun risk;

(2) To the extent that the team is entitled to compensatory damages under section 8.04(c)(iii) of the Baseball Stadium Agreement as a result of a force majeure event for which there is insurance coverage under subparagraph (1)(A) of this subsection, provide that the team's recourse to the District or the Sports and Entertainment Commission for the recovery of such damages shall be limited exclusively to the proceeds of the insurance; and

(3) To the extent that the team is entitled to compensatory damages under section 8.04(c)(iii) of the Baseball Stadium Agreement with regard to a missed deadline, provide that the team's recourse to the District or the Sports and Entertainment Commission for the recovery of such damages, after giving effect to any insurance or other third party recoveries, shall be limited exclusively to:

(A) With regard to the first 12 months following the missing deadline, the right of offset against the license fees for the use of Robert F. Kennedy Stadium after March 1, 2008; and

(B) With regard to the second 12 months following the missed deadline, an amount calculated in accordance with the Baseball Stadium Agreement that shall not exceed \$19 million.

(b) The ballpark lease agreement and the license agreement for interim use



of Robert F. Kennedy Stadium shall each include provisions requiring Baseball Expos, L.P., or its assigns or successors, to maintain its Major League Baseball franchise in the District for the term of the agreement, and shall each include such other provisions and remedies as shall be necessary to ensure enforcement of this obligation, including all remedies available under District law, and provisions requiring Baseball Expos, L.P., or its assigns or successors, if the team relocates from the District prior to the expiration of the term of the agreement, to directly pay, or to finance the reimbursement of the District or any other party, for any and all outstanding costs to be borne by the District or any other party related to the ballpark as set forth in § 10-1601.02(c), and for any lost revenue that the District or any other party would have received if the team had completed its term.

(Apr. 8, 2005, D.C. Law 15-320, § 108, 52 DCR 1757.)

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 10-1601.01.

## PART B.

### BALLPARK CONSTRUCTION HARD AND SOFT COSTS CAP.

## § 10-1601.31. Definitions.

For the purposes of this part, the term:

(1) “Ballpark”, “Ballpark Site”, and “MLB Team” shall have the same meanings as provided in § 10-1601.05(a)(1), (2), and (4), respectively.

(2) “Bonds” shall have the same meaning as in § 10-1601.03(a)(2).

(3) “Hard costs” means the direct construction costs and builders contingency costs, estimated as \$295,075,993 and \$24,924,007, respectively, in the revised budget for the ballpark transmitted by the District of Columbia Sports and Entertainment Commission to the Council on February 3, 2006, for the construction of the ballpark.

(4) “Soft costs” means the soft, ancillary, contingency, completion guarantee fee, and financing fee costs for the construction of the ballpark, excluding the land acquisition, environmental remediation, relocation, and demolition costs, estimated as \$117,342,193, and excluding the \$24 million utilized for the renovation of RFK Stadium, as reflected in the May 31, 2007 revised budget for the ballpark transmitted by the District of Columbia Sports and Entertainment Commission to the Council on June 15, 2007.

(Oct. 18, 2007, D.C. Law 17-22, § 2, 54 DCR 8006.)

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 2 of Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Temporary Act of 2006 (D.C. Law 16-115, June 9, 2006, law notification 53 DCR 5353).

For temporary (225 day) addition, see § 2 of Ballpark Hard and Soft Costs Cap Temporary Act of 2007 (D.C. Law 17-1, April 18, 2007, law notification 54 DCR 6580).

**Emergency legislation.** — For temporary (90 day) addition, see § 2 of Ballpark Hard and

Soft Costs Cap and Ballpark Lease Conditional Approval Emergency Act of 2006 (D.C. Act 16-277, February 14, 2006, 53 DCR 1341).

For temporary (90 day) addition, see § 2 of Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Congressional Review Emergency Act of 2006 (D.C. Act 16-378, May 19, 2006, 53 DCR 4399).

For temporary (90 day) addition, see § 2 of Ballpark Hard and Soft Costs Cap Emergency Act of 2007 (D.C. Act 17-11, January 26, 2007, 54 DCR 1514).

**Legislative history of Law 17-22.** — Law 17-22, the “Ballpark Hard and Soft Cost Cap Act of 2007”, was introduced in Council and assigned Bill No. 17-11 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on June 21, 2007, and July 10, 2007, respectively. Signed by the Mayor on July 27, 2007, it was assigned Act No. 17-84 and transmitted to both Houses of Congress for its review. D.C. Law 17-22 became effective on October 18, 2007.

## § 10-1601.32. Limitation on contribution of bond proceeds and expenditure of funds.

(a) The District’s contribution of bond proceeds from public financing to the project budget, and the expenditure of funds, for the construction of the ballpark shall not exceed \$300 million for the hard costs and \$175,184,218 for the soft costs.

(b) The expenditure limits of \$300 million and \$175,184,218 shall include public funds from any source expended by the District government or any of its independent agencies or instrumentalities.

(Oct. 18, 2007, D.C. Law 17-22, § 3, 54 DCR 8006.)

**Section references.** — This section is referenced in § 10-1601.05 and § 10-1601.33.

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 3 of Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Temporary Act of 2006 (D.C. Law 16-115, June 9, 2006, law notification 53 DCR 5353).

For temporary (225 day) addition, see § 3 of Ballpark Hard and Soft Costs Cap Temporary Act of 2007 (D.C. Law 17-1, April 18, 2007, law notification 54 DCR 6580).

**Legislative history of Law 17-22.** — For Law 17-22, see notes following § 10-1601.31.

## § 10-1601.33. Payment in excess of expenditure limits.

(a) Notwithstanding any other provision of law, and in accordance with Council approval of contract CA 16-185, the lease agreement between the District of Columbia Sports and Entertainment Commission and Baseball Expos, L.P., and the Construction Administration Agreement as set forth in the Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Temporary Act of 2006, effective June 8, 2006 (D.C. Law 16-115; 53 DCR 2542), and subject to § 10-1601.32, the amount of the hard costs in excess of \$300 million and the soft costs in excess of \$175,184,218 shall be paid by:

- (1) The MLB Team;
- (2) Savings realized from value engineering; or
- (3)(A) Federal;
- (B) Private; or

(C) Other non-District government funds, except that District government funds, other than funds in the General Fund of the District of Columbia, may be used if required by the bond indenture to finance the construction of the ballpark.

(b) The funds required by the bond indenture to finance construction of the



ballpark, referred to in subsection (a)(3)(C) of this section, include approximately \$37 million of baseball revenue collected in 2005 (plus interest), approximately \$30 million of interest earned from the borrowing, and approximately \$9 million of premium received on the sale of the bonds. These fees shall not exceed the total expenditure limits set forth in this part.

(c) Any revenue derived from development rights on the Ballpark Site by the Anacostia Waterfront Corporation or any District government entity, independent agency, or instrumentality shall not be used for any overruns on the hard and soft costs, but may be used for any overruns on the land acquisition and remediation costs that are documented.

(d) The funds from the sources listed in subsection (a) of this section may be expended to cover any amount of the hard costs in excess of \$300 million and any amount of the soft costs in excess of \$175,184,218.

(Oct. 18, 2007, D.C. Law 17-22, § 4, 54 DCR 8006.)

**Section references.** — This section is referenced in § 10-1601.05.

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 3 of Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Temporary Act of 2006 (D.C. Law 16-115, June 9, 2006, law notification 53 DCR 5353).

For temporary (225 day) addition, see § 4 of Ballpark Hard and Soft Costs Cap Temporary Act of 2007 (D.C. Law 17-1, April 18, 2007, law notification 54 DCR 6580).

**Emergency legislation.** — For temporary (90 day) addition, see § 3 of Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Congressional Review Emergency Act of 2006 (D.C. Act 16-378, May 19, 2006, 53 DCR 4399).

For temporary (90 day) addition, see § 4 of Ballpark Hard and Soft Costs Cap Emergency Act of 2007 (D.C. Act 17-11, January 26, 2007, 54 DCR 1514).

**Legislative history of Law 17-22.** — For Law 17-22, see notes following § 10-1601.31.

## § 10-1601.34. Development rights.

(a) The District government, or one of its instrumentalities, such as the Anacostia Waterfront Corporation, shall control development rights on the north side of the Ballpark Site and all but 210,000 square feet of development rights reserved for the MLB Team purposes on the south side of the Ballpark Site. Development on the east side of the Ballpark Site, on First Street, S.E., shall generate revenue to the District and shall be developed in accordance with a plan approved by the Council.

(b) Any excess revenues derived from development rights that are not used for cost overruns for land acquisition and environmental remediation shall be deposited into the Community Benefits Fund established by § 10-1602.02.

(Oct. 18, 2007, D.C. Law 17-22, § 5, 54 DCR 8006.)

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 4 of Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Temporary Act of 2006 (D.C. Law 16-115, June 9, 2006, law notification 53 DCR 5353).

For temporary (225 day) addition, see § 5 of Ballpark Hard and Soft Costs Cap Temporary Act of 2007 (D.C. Law 17-1, April 18, 2007, law notification 54 DCR 6580).

**Emergency legislation.** — For temporary (90 day) addition, see § 4 of Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Congressional Review Emergency Act of 2006 (D.C. Act 16-378, May 19, 2006, 53 DCR 4399).

For temporary (90 day) addition, see § 5 of Ballpark Hard and Soft Costs Cap Emergency Act of 2007 (D.C. Act 17-11, January 26, 2007, 54 DCR 1514).



**Legislative history of Law 17-22.** — For Law 17-22, see notes following § 10-1601.31.

*Subchapter II. Community Benefit Fund Associated with Ballpark.*

**§ 10-1602.01. Findings.**

The Council finds that it is appropriate that the District of Columbia seek to utilize the economic benefits that will be derived from the construction of the ballpark for the benefit and well-being of the residents of the District.

(Apr. 8, 2005, D.C. Law 15-320, § 201, 52 DCR 1757.)

**Legislative history of Law 15-320.** — Law 15-320, the “Ballpark Omnibus Financing and Revenue Act of 2004”, was introduced in Council and assigned Bill No. 15-1028, which was referred to the Committee of Finance and Revenue. The Bill was adopted on first and final

readings on November 30, 2004, and December 21, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-717 and transmitted to both Houses of Congress for its review. D.C. Law 15-320 became effective on April 8, 2005.

**§ 10-1602.02. Creation of Community Benefit Fund.**

(a)(1) There is hereby established within the General Fund of the District of Columbia, a segregated, nonlapsing special revenue fund to be denominated as the Community Benefit Fund. The Chief Financial Officer of the District of Columbia shall pay into the Community Benefit Fund all receipts from those fees and taxes specifically identified by any provision of District of Columbia law to be paid into the fund.

(2) The Chief Financial Officer of the District of Columbia shall create a sub-account within the Community Benefit Fund for each type of fee and tax that is to be paid into the fund and shall allocate the receipts from each type of fee and tax to the appropriate sub-account. The Mayor, or any District government agency or instrumentality which has been designated by the Mayor, may pledge and create a security interest in the funds in the Community Benefit Fund, or any sub-account or sub-accounts within the fund for the payment of the costs of carrying out any of the purposes described in subsection (b) of this section, the payment of the debt service on any bonds or other evidence of indebtedness issued by the District, or any District government agency or instrumentality, or any of the purposes described in subsection (b) of this section, without further action as permitted by § 1-204.90(f).

(3) If bonds or other evidence of indebtedness are issued, the payment shall be made in accordance with the provisions of the documents entered into by the District or any District agency or instrumentality in connection with the issuance of the bonds or other evidence of a security interest created pursuant to this subsection shall be valid, binding, and perfected from the time the security interest is created, with or without the physical delivery of any funds or any other property and with or without further action. The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed. The lien

created by the security interest is valid, binding, and perfected with respect to any person (as defined in § 47-2001(i)) having claims against the District, whether or not the person has notice of the lien.

(b) The funds deposited in the Community Benefit Fund shall be used to directly pay or to finance community area priorities, including recreation centers, small business development incentives, job training and readiness programs, school athletic facilities, and such other projects that the Mayor shall find to be of benefit to any area of the District. Any working capital or operating expenses permitted by this section shall be derived from sources from which the funds may be authorized. In addition to the purpose set forth above for the funds deposited in the Community Benefit Fund, there shall be the following expenditures made from the Fund. All expenditures from the Fund shall be submitted to the Council, by legislation for approval:

(1) \$5 million shall be made available to the Department of Parks and Recreation for capital investment for a Learning and Sports Center facility to be located adjacent to Fort Greble Recreation Center;

(2) \$5 million shall be available for school-based athletics, which funds shall be allocated to the Washington Convention and Sports Authority and expended based upon a needs assessment prepared by the Superintendent of the District of Columbia Public Schools;

(3) \$5 million shall be available for future allocation to projects located within the boundaries of Ward 6;

(4) \$5 million shall be available for future allocation to projects located within the boundaries of Ward 7;

(5) \$2 million shall be available for equipment and supplies at McKinley Technology High School to deliver the specialized curriculum in biotechnology, information technology, and broadcast technology;

(6) \$10 million shall be made available to assess the feasibility of, and begin planning for, the National Capital Medical Center on the grounds of the former D.C. General Hospital;

(7) Ten percent of the revenue generated by the bonds authorized pursuant to § 10-1602.03(b) shall be allocated for commercial development in specified areas including the Good Hope Road, South Capitol Street, Martin Luther King Jr. Avenue, and Minnesota Avenue corridors; provided, that boundaries for the aforementioned development shall be designated by the Office of Planning within 120 days of April 8, 2005;

(8) An amount not to exceed \$125 million shall be made available exclusively for school construction and modernization; and

(9) An amount not to exceed \$45 million shall be made available for capital improvements for public neighborhood libraries in the District of Columbia.

(c) This section shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

(Apr. 8, 2005, D.C. Law 15-320, § 202, 52 DCR 1757; Mar. 3, 2010, D.C. Law 18-111, § 2082(m)(2), 57 DCR 181; Sept. 14, 2011, D.C. Law 19-21, § 8132, 58 DCR 6226.)



**Section references.** — This section is referenced in § 2-1217.12, § 10-1601.34, and § 10-1602.03.

**Effect of amendments.** — D.C. Law 18-111, in subsec. (b)(2), substituted “Washington Convention and Sports Authority” for “Sports and Entertainment Commission”.

D.C. Law 19-21 added subsec. (c).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2082(m)(2) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2082(m)(2) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 8022 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 10-1602.01.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 10-303.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

**Short title.** — Short title: Section 8131 of D.C. Law 19-21 provided that subtitle N of title VIII of the act may be cited as “Community Benefits Fund Amendment Act of 2011”.

## § 10-1602.03. Bond issuance.

(a) For the purposes of this section, the term:

(1) “Community Benefit Fund” means the Community Benefit Fund established by § 10-1602.02.

(2) “Bonds” means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations) in one or more series, authorized to be issued pursuant to § 1-204.90, as implemented by this subchapter.

(3) “DC Ballpark TIF area” means the tax increment financing area designated and established by § 2-1217.12.

(4) “Home Rule Act” means Chapter 2 of Title 1.

(5) “Projects” means the financing, refinancing, or reimbursing of costs incurred in the site acquisition for, and the development, design, construction, improvement, furnishing, and equipping of recreation centers, libraries, small business development incentives, job training and readiness programs, school athletic facilities, and such other projects to be of benefit to any community of the District.

(b) The Council hereby authorizes the issuance of one or more series of Bonds in an aggregate amount not to exceed \$450 million for payment of the costs of the projects, of which \$50 million shall be used for infrastructure improvements in the DC Ballpark TIF Area. There is hereby allocated to the bonds the funds in the Community Benefit Fund, or such portion of the funds as shall be determined in accordance with the terms of the bonds, for the payment of debt service on the bonds and the payment of such other costs as are permitted to be paid with funds from the Community Benefit Fund. The issuance of any series of bonds shall be approved by resolution of the Council.

(c) The Mayor may take any action necessary or appropriate in accordance with this subchapter in connection with the preparation, execution, issuance, sale, delivery, and payment of bonds, including determinations of:

(1) The final form, content, designation, and terms of the bonds, including a determination that the bonds may be issued in certificate or book entry form;

(2) The principal amount of the bonds to be issued and the denominations of the bonds;



(3) The rate or rates of interest on, and the method or methods of determining the rate or rates of interest on, the bonds;

(4) The date or dates of issuance, sale, and delivery of, the payment of interest on, and the maturity date or dates of, the bonds;

(5) Whether the bonds are to be sold at a competitive or negotiated sale and the terms and conditions of the sale;

(6) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated, called or put for redemption, repurchase, or remarketing before their respective stated maturities;

(7) Provisions for the registration, transfer, and exchange of each series of bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

(8) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds and the determination of the priority thereof;

(9) The time and place of payment of the bonds;

(10) Whether the bonds will be taxable, tax-exempt, or a combination thereof;

(11) Procedures for monitoring the use of the proceeds received from the sale of the bonds to ensure that they are properly applied to the projects and used to accomplish the purposes of this subchapter; and

(12) Actions necessary to qualify the bonds under the blue sky laws of any jurisdiction where the bonds are marketed.

(d) The bonds shall contain a legend, which shall provide that the bonds shall be special obligations of the District, shall be nonrecourse to the District, shall not be a pledge of, and shall not involve, the faith and credit or the taxing power of the District (other than the payments from the Community Benefit Fund or any other security authorized by this subchapter), shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited by § 1-206.02(a)(2).

(e) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor. The Mayor's execution and delivery of the bonds shall constitute conclusive evidence of the Mayor's approval on behalf of the District of the final form and content of the bonds.

(f) The official seal of the District, or a facsimile of it, shall be impressed, printed or otherwise reproduced on the bonds.

(g) The bonds may be issued at any time or from time to time in one or more issues and one or more series and may be sold at public or private sale. A series of bonds may be secured by a trust agreement or trust indenture between the District and a corporate trustee having trust powers, and may be secured by a loan agreement or other instrument or instruments by means of which the District may:

(1) Make and enter into any and all covenants and agreements with the trustee or the holders of the bonds that the District may determine to be necessary or desirable relating to:

(A) The application, investment, deposit, use, and disposition of the proceeds of bonds and the other monies, securities, and property of the District;

(B) The assignment by the District of its rights in any agreement;

(C) The terms and conditions upon which additional bonds of the District may be issued;

(D) The appointment of a trustee to act on behalf of bondholders and abrogating or limiting the rights of the bondholders to appoint a trustee; and

(E) The vesting in a trustee for the benefit of the holders of bonds, or in the bondholders directly, such rights and remedies as the District shall determine to be necessary or desirable;

(2) Pledge, mortgage or assign monies, agreements, property, or other assets of the District, either in hand or to be received in the future, or both;

(3) Provide for bond insurance, letters of credit, interest rate swaps, or other financial derivative products or otherwise enhance the credit of and security for the payment of the bonds or reduce or otherwise manage the interest costs of the bonds; and

(4) Provide for any other matters of like or different character that in any way affects the security for or payment on the bonds.

(h) The bonds are declared to be issued for essential public and governmental purposes. The Bonds, the interest thereon, the income therefrom, and all monies pledged or available to pay or secure the payment of the bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

(i) The District does hereby pledge and covenant and agree with the holders of the bonds that, subject to the provisions of the financing documents, the District will not limit or alter the revenues pledged to secure the bonds or the basis on which the revenues are collected or allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the bonds, will not in any way impair the rights or remedies of the holders of the bonds, and will not modify in any way, with respect to the bonds, the exemptions from taxation provided for in this subchapter, until the bonds, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any suit, action or proceeding by or on behalf of the holders of the bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the bonds. This subsection shall constitute a contract between the District and the holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict with this subchapter, this subchapter shall be controlling.

(j) Consistent with § 1-204.90(a)(4)(B), and notwithstanding Article 9 of Subtitle I of Title 28:

(1) A pledge made and security interest created in respect of the bonds or pursuant to any related financing document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract, or otherwise against the District, whether or not the party has notice; and

(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.



(k) If there shall be a default in the payment of the principal of, or interest on, any bonds of a series after the principal or interest shall become due and payable, whether at maturity or upon call for redemption, or if the District shall fail or refuse to carry out and perform the terms of any agreement with the holders of any of the bonds, the holders of the bonds, or the trustee appointed to act on behalf of the holder of the bonds, may, subject to the provisions of the financing documents, do the following:

(1) By action, writ or other proceeding, enforce all rights of the holders of the bonds, including the right to require the District to carry out and perform the terms of any agreement with the holders of the bonds or its duties under this subchapter;

(2) By action, require the District to account as if it were the trustee of an express trust;

(3) By action, petition to enjoin any acts or things that may be unlawful or in violation of the rights of the holders of the bonds; and

(4) Declare all the bonds to be due and payable, whether or not in advance of or at maturity and, if all defaults be made good, annul the declaration and its consequences.

(l) The members of the Council, the Mayor, or any person executing any of the bonds shall not be personally liable on the bonds by reason of their issuance.

(m) Notwithstanding any other provision of this subchapter, the bonds shall not be general obligations of the District and shall not be in any way a debt or liability of the District within the meaning of any debt or other limit prescribed by law. The faith and credit or the general taxing power of the District (other than monies in the Community Benefit Fund or any other security authorized by this subchapter) shall not be pledged to secure the payment of the bonds.

(Apr. 8, 2005, D.C. Law 15-320, § 203, 52 DCR 1757.)

**Section references.** — This section is referenced in § 10-1602.02.

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 10-1602.01.

## § 10-1602.04. Community investment plan.

(a) The Mayor shall make a request for an appropriation for expenditures from the Community Benefit Fund, based on a community investment plan, which shall be:

(1) Developed with input from Advisory Neighborhood Commissions, community groups, the faith community, representatives of the labor community, representatives of the business community, and other community stakeholders;

(2) Submitted to the affected Advisory Neighborhood Commissions, community groups, the faith community, representatives of the labor community, representatives of the business community, and other community stakeholders for a comment period of one month; and

(3)(A) Submitted by the Mayor to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess.



(B) If the Council does not approve or disapprove the proposed plan, in whole or in part, by resolution within this 30-day review period, the proposed plan shall be deemed approved.

(b) The request shall be designed to ensure that expenditures from the Community Benefit Fund are used to supplement, rather than supplant, capital funds already appropriated to District of Columbia agencies for similar purposes. The plans shall also seek to coordinate the expenditures of capital funds already appropriated to District government agencies to support community investment goals.

(c) The request shall outline the manner in which funds shall be used to develop, maintain, and improve physical facilities and infrastructure owned by the District of Columbia, particularly for projects or improvements in community plans that do not qualify for capital budget funding.

(Apr. 8, 2005, D.C. Law 15-320, § 204, 52 DCR 1757.)

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 10-1602.01.

## CHAPTER 17. WILSON BUILDING AND BASEBALL STADIUM MESSAGE BOARDS.

Sec. 10-1701. Taxation without representation federal tax pay-out message board installation.

### § 10-1701. Taxation without representation federal tax pay-out message board installation.

(a) Notwithstanding any other law or regulation, the Council of the District of Columbia shall install, adjacent to the outside front wall of the John A. Wilson Building, a programmable electronic message board sign showing the dollar amount of federal taxes paid by the residents of the District of Columbia.

(b) Notwithstanding any other law or regulation, the Mayor shall install, on public space within 200 feet of the baseball stadium, currently called Nationals Park, a programmable electronic message board sign showing the dollar amount of federal taxes paid by the residents of the District of Columbia.

(c) The signs shall be large enough for the public to easily read and designed and placed in such a location so as not to deter from the architectural character of the exterior of the John A. Wilson Building or the exterior of Nationals Park.

(d) Preference for the design, manufacture, installation, and maintenance of the signs shall be given to businesses certified as small, local, or disadvantaged business enterprises by the Department of Small and Local Business Development.

(Oct. 21, 2008, D.C. Law 17-232, § 2, 55 DCR 9008.)

**Emergency legislation.** — For temporary (90 day) repeal of section 3 of D.C. Law 17-232, see § 7021 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal of section 3 of D.C. Law 17-232, see § 7021 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 17-232.** — Law 17-232, the “Taxation Without Representation Federal Tax Pay-Out Message Board Installation Act of 2008”, was introduced in Council and

assigned Bill No. 17-28, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on July 28, 2008, it was assigned Act No. 17-472 and transmitted to both Houses of Congress for its review. D.C. Law 17-232 became effective on October 21, 2008.

**Editor’s notes.** — Section 3 of D.C. Law 17-232 provided that Section 2(b) shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

Section 7021 of D.C. Law 18-111 repealed section 3 of D.C. Law 17-232.

CHAPTER 18. WATERFRONT PARK AT THE YARDS.

Sec.

10-1801. Definitions.

10-1802. Authorization of Maintenance Agreement.

10-1803. Creation of the Waterfront Park Maintenance Fund.

Sec.

10-1804. Allocation of sales tax revenue attributable to the Waterfront Park Retail Area.

10-1805. Naming rights for the Waterfront Park.

§ 10-1801. Definitions.

For the purposes of this chapter, the term:

(1) "Chief Financial Officer" means the Chief Financial Officer established pursuant to § 1-204.24a.

(2) "Contribution period" means the period of time beginning on July 1, 2012, and ending on June 30, 2017.

(3) "CPI" means the "Consumer Price Index-all items CPIU (1996=100) Washington-Baltimore, DC-MD-VA-WV," or any successor index, as published by the United States Department of Labor, Bureau of Labor Statistics, or any successor agency.

(4) "Maintenance Agreement" means a Waterfront Park Maintenance and Programming Agreement by and among the District of Columbia, Forest City SEFC, LLC, and the Capitol Riverfront Business Improvement District.

(5) "Project Developer" means Forest city SEFC, LLC, a District of Columbia limited liability company, its successors, or assigns.

(6) "Sales tax revenue" means the revenue resulting from the imposition of the tax under Chapters 20 and 22 of Title 47, including penalty and interest charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center Fund established pursuant to § 10-1202.08.

(7) "Waterfront Park" means the approximately 5 acres located south of Water Street, S.E., between 2nd Street, S.E., and 4th Street, S.E., that are to be constructed for use as a public park.

(8) "Waterfront Park Benefit District" means the special assessment district established by § 47-895.22.

(9) "Waterfront Park Retail Area" means the real property known for tax and assessment purposes as Lots 803, 804, 805, and 806, Square 771.

(10) "Waterfront Park Special Assessment" means the special assessment imposed by § 47-895.23.

(Mar. 3, 2010, D.C. Law 18-105, § 2, 57 DCR 11.)

**Legislative history of Law 18-105.** — Law 18-105, the "Waterfront Park at the Yards Act of 2009", was introduced in Council and assigned Bill No. 18-299, which was referred to the Committee on Finance and Revenue. The bill was adopted on first and second readings on

November 3, 2009, and December 1, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-243 and transmitted to both Houses of Congress for its review. D.C. Law 18-105 became effective on March 3, 2010.

§ 10-1802. Authorization of Maintenance Agreement.

(a) Notwithstanding any other provision of law, the Mayor may enter into the Maintenance Agreement, and any amendments or supplements to the



Maintenance Agreement, if the Maintenance Agreement provides that the Project Developer shall:

(1) Pay and file its monthly District of Columbia sales and use tax returns for taxes attributable to the Waterfront Park Retail Area by electronic means, separate from any parent, subsidiary, affiliate, umbrella business organization, or other taxable entity or space of the Project Developer, and in a manner consistent with the instructions of the Office of Tax and Revenue;

(2) Through lease arrangements or other means, obtain the written agreement of all tenants and vendors within the Waterfront Park Retail Area to pay and file their monthly District of Columbia sales and use taxes attributable to the Waterfront Park Retail Area by electronic means, separate and apart from any parent, subsidiary, affiliate, umbrella business organization, or other taxable entity or space of the tenant or vendor; and

(3) File with the Recorder of Deeds a consent to the levy of the special assessment imposed by subchapter VII of Chapter 8 of Title 47.

(b) Chapter 3A of Title 2 [§ 2-351.01 et seq.] shall not apply to the Maintenance Agreement.

(Mar. 3, 2010, D.C. Law 18-105, § 3, 57 DCR 11; Sept. 26, 2012, D.C. Law 19-171, § 225, 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 substituted “Chapter 3A of Title 2” for “§ 2-301.01 et seq.” in (b).

**Legislative history of Law 18-105.** — For Law 18-105, see notes following § 10-1801.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of

2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

## § 10-1803. Creation of the Waterfront Park Maintenance Fund.

(a) There is established as a nonlapsing fund the Waterfront Park Maintenance Fund (“Fund”), which shall be used solely to pay the expenses of maintaining, operating, and improving the Waterfront Park and the expenses of events held in the Waterfront Park. The Chief Financial Officer shall deposit into the Waterfront Park Maintenance Fund the sales tax revenues attributable to the Waterfront Park Retail Area, revenue from the Waterfront Park Special Assessment, proceeds from the sale of the Anacostia Waterfront Corporation PILOT Revenue Bonds (Anacostia DOT Waterfront Projects) Series 2007 (“PILOT Bond Proceeds”) that are designated by the Mayor from the portion of the PILOT Bond Proceeds set aside for the Waterfront Park, and any income generated by the naming rights to the Waterfront Park into the Waterfront Park Maintenance Fund.

(b) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection

(b) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(Mar. 3, 2010, D.C. Law 18-105, § 4, 57 DCR 11.)

**Section references.** — This section is referenced in § 47-895.24.

**Legislative history of Law 18-105.** — For Law 18-105, see notes following § 10-1801.

## § 10-1804. Allocation of sales tax revenue attributable to the Waterfront Park Retail Area.

During the contribution period, the sales and use tax revenue attributable to the Waterfront Park Retail Area shall be allocated and deposited into the Waterfront Park Maintenance Fund in the following amounts:

- (1) In the 12-month period beginning July 1, 2012, \$380,000;
- (2) In each 12-month period beginning on each July 1 thereafter that is within the contribution period, an amount equal to \$380,000, increased by the increase in the CPI during the period from July 1, 2012, to the beginning of that 12-month period.

(Mar. 3, 2010, D.C. Law 18-105, § 5, 57 DCR 11; Sept. 26, 2012, D.C. Law 19-171, § 74, 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

**Legislative history of Law 18-105.** — For Law 18-105, see notes following § 10-1801.

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned

Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

## § 10-1805. Naming rights for the Waterfront Park.

(a) The provisions of subchapter IV of Unit A of Chapter 2 of Title 9 [§ 9-204.01 et seq.] shall not apply to the Waterfront Park.

(b) The authority to sell the naming rights for the Waterfront Park, including the right to sell the naming rights for portions of the Waterfront Park, is assigned to Forest City SEFC, LLC; provided, that:

- (1) The name of the park shall be subject to the approval of the Mayor;
- (2) Forest City SEFC, LLC, shall transfer all income generated from the naming of the Waterfront Park to the District; and
- (3) All income transferred to the District pursuant to paragraph (2) of this subsection shall be deposited into the Waterfront Park Maintenance Fund.

(Mar. 3, 2010, D.C. Law 18-105, § 6, 57 DCR 11.)

**Emergency legislation.** — For temporary (90 day) additions, see §§ 2 to 6 of the Walter Reed Army Medical Center Base Realignment and Closure Homeless Assistance Submission

Emergency Approval Act of 2012 (D.C. Act 19-393, July 18, 2012, 59 DCR 8690).

**Legislative history of Law 18-105.** — For Law 18-105, see notes following § 10-1801.



## CHAPTER 19. WALTER REED ARMY MEDICAL CENTER.

Sec.

10-1901. Definitions.

10-1902. Findings and purpose.

10-1903. Approval of plans.

10-1904. Transfer of real property pursuant to  
Legally Binding Agreement.

Sec.

10-1905. Transfer of real property pursuant to  
Memorandum of Agreement.**§ 10-1901. Definitions.**

For the purposes of this chapter, the term:

(1) “Base Closure Act” means the Defense Base Closure and Realignment Act of 1990, approved November 5, 1990 (104 Stat. 1485; 10 U.S.C. § 2687, note).

(2) “Homeless Submission” means the Walter Reed Army Medical Center Base Realignment and Closure Homeless Assistance Submission to be submitted to the U.S. Department of Housing and Urban Development that shall be developed and implemented pursuant to section 2905 of the Base Closure Act and includes the Walter Reed Reuse Plan and Legally Binding Agreements, in substantially the same form as submitted by the Mayor to the Council.

(3) “Legally Binding Agreement” means an agreement between the District, as the Walter Reed LRA, and a homeless-assistance provider recommended for approval by the Walter Reed LRA Committee, that commits the District and the homeless-assistance provider to implement and operate certain homeless assistance-services on the Walter Reed Army Medical Center Site and may require the transfer of real property on the Walter Reed Army Medical Center Site by the District to the homeless-assistance provider, in substantially the same form as submitted by the Mayor to the Council, subject to amendments requested by the U.S. Department of Housing and Urban Development.

(4) “LRA” means local redevelopment authority.

(5) “Memorandum of Agreement” means an agreement between the District, as the Walter Reed LRA, and a public-benefit provider recommended for approval by the Walter Reed LRA Committee, of educational, safety, and public health uses on the Walter Reed Army Medical Center Site for the potential transfer of real property on the Walter Reed Army Medical Center Site by the District to the public benefit provider, in substantially the same form as submitted by the Mayor to the Council.

(6) “Walter Reed LRA” means the District of Columbia, which is the local redevelopment authority recognized by the Office of Economic Adjustment on behalf of the Secretary of Defense as the entity responsible for developing a reuse plan, pursuant to the Base Closure Act.

(7) “Walter Reed LRA Committee” means the committee established by Mayor’s Order No. 2006-21 to develop final recommendations for the Walter Reed Reuse Plan to the Mayor and Council, which is comprised of representatives from the Mayor’s Office and the Council, and 5 voting and 5 alternate citizen members, all of whom live in the community surrounding the Walter Reed Army Medical Center site.



(8) “Walter Reed Army Medical Center Site” means 67.5 acres located on a portion of the area bounded by Fern Street, N.W., and Alaska Avenue, N.W., to the north, 16th Street, N.W., to the west, Aspen Street, N.W., to the south, and Georgia Avenue, N.W., to the east, as further identified in the Walter Reed Reuse Plan.

(9) “Walter Reed Reuse Plan” means the Walter Reed Local Redevelopment Authority Reuse Plan for the Walter Reed Army Medical Center Site, which was developed in conjunction with the Walter Reed LRA Committee for final recommendation to the Mayor and the Council for adoption and approval by enactment of this chapter, in substantially the same form as submitted by the Mayor to the Council.

(Oct. 16, 2012, D.C. Law 19-175, § 2, 59 DCR 9106.)

**Emergency legislation.** — For temporary addition of chapter, see §§ 2 to 6 of the Walter Reed Army Medical Center Base Realignment and Closure Homeless Assistance Submission Congressional Review Emergency Approval Act of 2012 (D.C. Act 19-528, November 2, 2012, 59 DCR 13325), applicable as of October 16, 2012.

**Legislative history of Law 19-175.** — Law 19-175, the “Walter Reed Army Medical Center

Base Realignment and Closure Homeless Assistance Submission Approval Act of 2012,” was introduced in Council and assigned Bill No. 19-729. The Bill was adopted on first and second readings on June 26, 2012, and July 10, 2012, respectively. Signed by the Mayor on July 24, 2012, it was assigned Act No. 19-399 and transmitted to Congress for its review. D.C. Law 19-175 became effective on Oct. 16, 2012.

## § 10-1902. Findings and purpose.

(a) The Walter Reed Army Medical Center Site has been declared surplus and closed by the Department of Defense pursuant to the procedures and authorities of the Base Closure Act.

(b) Mayor’s Order No. 2006-21 designated the District of Columbia government as the Walter Reed LRA that was recognized by the Office of Economic Adjustment on behalf of the Secretary of Defense for the purpose of developing a Walter Reed Reuse Plan and established the Walter Reed LRA Committee and charged the committee with developing final recommendations for the Mayor and the Council for a Walter Reed Reuse Plan.

(c)(1) The Mayor, in conjunction with the Walter Reed LRA Committee, developed the Walter Reed Reuse Plan during public meetings on January 28, 2010, March 10, 2010, April 21, 2010, May 26, 2010, August 5, 2010, September 1, 2010, October 6, 2010, October 13, 2011, December 1, 2011, and January 25, 2012, which were supplemented by community input received at community meetings held on June 9, 2010, July 10, 2010, August 19, 2010, October 5, 2011, November 15, 2011, December 8, 2011, and February 2, 2012.

(2) The Walter Reed LRA Committee made final recommendations to the Mayor and Council on the Homeless Submission by motion approved on January 25, 2012.

(d) The Walter Reed Reuse Plan envisions a vibrant campus integrated into the community through the provision of expanded retail opportunities, preservation of open space, creative reuse of historic assets into a range of cultural and educational uses, creation of a range of jobs for District residents, and development of a variety of housing options to support a range of incomes and needs.

(e)(1) The Walter Reed Reuse Plan recommends homeless-assistance provider uses providing affordable housing and support services, subject to the Legally Binding Agreements.

(2) Pursuant to the terms of the Legally Binding Agreements, the transfer of the portions of the Walter Reed Army Medical Center Site to homeless-assistance providers shall be conditioned on, among other things, final approval of the Homeless Submission by the U.S. Department of Housing and Urban Development and the U.S. Department of the Army conveying the Walter Reed Army Medical Center Site to the District.

(f) The Walter Reed Reuse Plan also provides for the public benefit conveyance uses identified in the Memorandum of Agreement. Pursuant to the terms of the Memorandum of Agreement, the conveyance of the portions of the Walter Reed Army Medical Center Site to the public benefit conveyance users is conditioned on, among other things, final approval of the Homeless Submission by the U.S. Department of Housing and Urban Development and the U.S. Department of the Army conveying the Walter Reed Army Medical Center Site to the District.

(g) The Mayor shall seek to have the Office of Economic Adjustment on behalf of the Secretary of Defense recognize the District as an Implementation Local Reuse Authority, as defined in the Base Closure Act.

(h) Upon approval of the Homeless Submission by the U.S. Department of Housing and Urban Development and the Department of Defense, the Mayor, on behalf of the Walter Reed LRA, will seek to acquire and submit an application for approximately 67.5 acres of real property from the Department of Defense for redevelopment pursuant to section 2905(b)(4) of the Base Closure Act.

(Oct. 16, 2012, D.C. Law 19-175, § 3, 59 DCR 9106.)

**Emergency legislation.** — For temporary addition of section, see § 3 of the Walter Reed Army Medical Center Base Realignment and Closure Homeless Assistance Submission Congressional Review Emergency Approval Act of

2012 (D.C. Act 19-528, November 2, 2012, 59 DCR 13325), applicable as of October 16, 2012.

**Legislative history of Law 19-175.** — See note to § 10-1901.

## § 10-1903. Approval of plans.

The Council approves the Homeless Submission, the Walter Reed Reuse Plan, the Walter Reed LRA Committee final recommendations, adopted by the Walter Reed LRA, and the Legally Binding Agreements, as transmitted by the Mayor, for submission to the U.S. Department of Housing and Urban Development, and, thereafter, the U.S. Department of Defense. Further, the Mayor may amend or supplement the Walter Reed Reuse Plan, Homeless Submission, and Legally Binding Agreements based upon comments from the U.S. Department of Housing and Urban Development; provided, that any proposed amendment or supplement shall be made available by the Mayor to the public for a 30-day period of public review and comment.

(Oct. 16, 2012, D.C. Law 19-175, § 4, 59 DCR 9106.)

**Emergency legislation.** — For temporary addition of section, see § 4 of the Walter Reed Army Medical Center Base Realignment and Closure Homeless Assistance Submission Congressional Review Emergency Approval Act of

2012 (D.C. Act 19-528, November 2, 2012, 59 DCR 13325), applicable as of October 16, 2012.

**Legislative history of Law 19-175.** — See note to § 10-1901.

## § 10-1904. Transfer of real property pursuant to Legally Binding Agreement.

Notwithstanding Chapter 8 of this title [§ 10-801 et seq.], the Mayor is authorized to transfer the subject real property to the applicable homeless-assistance provider in accordance with the terms of the applicable Legally Binding Agreement.

(Oct. 16, 2012, D.C. Law 19-175, § 5, 59 DCR 9106.)

**Emergency legislation.** — For temporary addition of section, see § 5 of the Walter Reed Army Medical Center Base Realignment and Closure Homeless Assistance Submission Congressional Review Emergency Approval Act of

2012 (D.C. Act 19-528, November 2, 2012, 59 DCR 13325), applicable as of October 16, 2012.

**Legislative history of Law 19-175.** — See note to § 10-1901.

## § 10-1905. Transfer of real property pursuant to Memorandum of Agreement.

Notwithstanding Chapter 8 of this title [§ 10-801 et seq.], the Mayor is authorized to transfer the subject real property to the applicable public benefit conveyance applicant in accordance with the terms of the applicable Memorandum of Agreement.

(Oct. 16, 2012, D.C. Law 19-175, § 6, 59 DCR 9106.)

**Emergency legislation.** — For temporary addition of section, see § 6 of the Walter Reed Army Medical Center Base Realignment and Closure Homeless Assistance Submission Congressional Review Emergency Approval Act of

2012 (D.C. Act 19-528, November 2, 2012, 59 DCR 13325), applicable as of October 16, 2012.

**Legislative history of Law 19-175.** — See note to § 10-1901.















